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WESTERN AUSTRALIAN REGISTRAR AND COMMISSIONER OF TITLES JOINT PRACTICE: VERIFICATION OF IDENTITY (VOI Practice)

The Western Australian Registrar and Commissioner of Titles Joint Practice for Verification of Identity (VOI Practice) came into effect on 2 January 2013. The VOI Practice is designed to reduce the opportunity for successful land title fraud in Western Australia (WA) as a result of identity theft or other improper dealings. It sets out to achieve this by requesting verification of the identity of a person transacting and their authority to deal with an interest in land, before documents are lodged for registration at Landgate.

Overseas Witnessing

The VOI Practice states that outside of Australia:

1. The **Identifier** should be an Australian Consular Officer who undertakes verification of identity in accordance with the VOI Practice, and
2. An Australian Consular Officer should also (in cases where a witness is required) **witness** the execution of the document.

Verification of identity and witnessing for land transaction documents outside of Australia is sometimes more difficult than for those inside Australia.

It is important to note that for the purposes of implementation of the VOI Practice, 'verification of identity' and 'witnessing' are two separate processes and they need not occur at the same time. Witnessing of documents complements the VOI Practice. At the heart of the VOI Practice is verification of identity and authority to deal.

Alternatives to witnessing overseas by an Australian Consular Officer are considered in individual cases where there are extenuating circumstances.

Exceptional or Extenuating Circumstances for Overseas Witnessing

In exceptional or extenuating circumstances, an alternative witness within the meaning of Section 145 (1)(b) of the *Transfer of Land Act 1893* (TLA) may be accepted. Travel alone or mere inconvenience is not considered as exceptional circumstances. There needs to be some other exceptional or unusual circumstances fully explained, such as, a person with a medical condition making it dangerous for them to travel, and defence personnel on active duty overseas.

Requests seeking the approval to use an alternative witness must be made in advance and in writing by the Conveyancer / Lawyer / Mortgagee acting for the relevant party. The request must explain fully the extenuating circumstances and must be made prior to the execution (signing) and witnessing of the land transaction document. All such requests must identify the land by volume and folio number, the document type, as well as stating the name(s) of the relevant parties and settlement date. Written requests should be emailed to VOIPractice@landgate.wa.gov.au

Unless an exception is granted, Requisitions will issue on documents executed overseas, but not witnessed by an Australian Consular Officer.

Note: The responsibility for the VOI Practice and to provide a VOI Statement with the relevant documents lies with the Conveyancer / Lawyer / Mortgagee regardless of who witnesses the document.

Execution of Documents by a Foreign Registered Corporation

Paragraph 1.10.14 of the Land Titles Registration Practice Manual (Edition 11.0) states that *'Documents executed by foreign registered bodies will need to include a letter from the lawyer stating that the company is an overseas company and that they have signed the document in accordance with the laws relating to the jurisdiction of the country in which it is registered'*.

Please be aware that if the execution of the document by authorised officers of the corporation requires a witness, then that witness must be an authorised witness under the provisions of Section 145 1(b) of the TLA.

If the document is one that is subject to the VOI Practice, then the witness should be an Australian Consular Officer, unless the Registrar of Titles has accepted an alternative witness due to exceptional circumstances.

Written requests to use an alternative witness overseas, should be emailed to VOIPractice@landgate.wa.gov.au

Natural persons executing a real property document on behalf of a foreign registered corporation are required to be identified, if the document is subject to the VOI Practice. Table 1 in Paragraph 14.1.4 of the Land Titles Registration Practice Manual (Edition 11.0) lists the documents types subject to the VOI Practice.

The VOI Statement that accompanies documents executed by a foreign registered corporation may be made by the lawyer representing that foreign registered corporation in the particular transaction. That lawyer may be the in-house lawyer in the foreign registered corporation.

The Land Titles Registration Practice Manual (Edition 11.0) is available online at www.landgate.wa.gov.au under 'Quick Links' and clicking 'Landgate practice manuals' or directly [here](#).



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