

Witnessing Requirements in Tasmania

Natural Person

The signature of the mortgagor must be witnessed by an adult (over 18) who is not a party to the mortgage.

The full name and address of the witness must be supplied.

Power of Attorney

If the Power of Attorney was executed in a State, Territory or Country where registration is not required only the date of the Power of Attorney need be shown. (a copy of the Power of Attorney is to be produced with the document being lodged) Where the Power of Attorney has been given a registration number, only the number needs be shown.

Proof of Foreign Execution and Registration of a Power of Attorney (Sec.44 of the Powers of Attorney Act 2000) that is not registered in the state of Tasmania. For this purpose a **certificate** of a legal practitioner that the instrument creating the Power of Attorney was executed in accordance with the law of that specified State, Territory or law of the place of execution is required as evidence of that fact together with a copy of the Power of Attorney.

If an attorney is appointed as a member of a specified **class** (e.g. manager) see (Sec.26 of the Powers of Attorney Act 2000) the attorney is to state the capacity in which they are signing.

Where the non-revocation clause is included in the attestation the Tasmanian Land Titles Office will not insist upon the full declaration of non-revocation of the Power of Attorney (Land Titles Regulations 2002).

Company

If the mortgagor or mortgagee is a body corporate, its execution must comply with any formalities prescribed by the statute under which it is incorporated and (if relevant) its constitution.

Execution in accordance with section 127 of the Corporations Act for either a mortgagor or mortgagee:

- Affix the seal and the affixing is witnessed by a sole director and secretary; or 2 directors of the company; or a director and company secretary of the company.
- Execute without using a common seal if the document is signed by a sole director and secretary; or 2 directors of the company; or a director and company secretary of the company.

Association

Requirements for Associations vary depending on what is in accordance with the rules of the association however; office practice is to check that the mortgagor or mortgagee has:

- Affixed the seal and the affixing is witnessed by a person solely who states they are a public officer or;

Affixed the seal and the affixing is witnessed by two people who state their title.