

Signing & Witnessing Requirements in Northern Territory

On paper – signed by Mortgagor

Mortgage lodged with the Land Titles Office in paper where both the mortgagor and mortgagee execute must have the following mortgage execution requirements.

Mortgagor Execution

- **Natural Person**

If the mortgagor or mortgagee is a natural person signing in his or her own right, he or she must sign his or her usual signature in the place indicated on the form. The mortgagor or mortgagees' signature must be witnessed by a qualified witness as mentioned in Schedule 1 of the *Land Title Act* and the Registrar-Generals Directions.

- **Power of Attorney**

The mortgagor or mortgagee may execute the mortgage by his, her or its attorney, providing that the power of attorney has been registered with the Land Titles Office and authorises such an action. The execution clause for a mortgagor should state 'Executed for (name of mortgagor) by (name of attorney) under power of attorney (number of registered power of attorney document)'. The execution clause for a mortgagee should state 'Executed for (name of mortgagee) by (name and position of attorney) under power of attorney (number of registered power of attorney document)'. The signature of the attorney signing as the mortgagor or mortgagee must be witnessed by a qualified witness as mentioned in Schedule 1 of the *Land Title Act* and the Registrar-Generals Directions.

- **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.

Mortgagee Execution Witnessing

- **Individual**

Signing Party	NT
Mortgagee	YES
Attorney (under POA)	YES
Australian Legal Practitioner	NO
Licensed Conveyancer	NO

- **Corporation**

Signing Party	NT
Using common seal – Multi-person Company: Director & Director or Director & Secretary signs	NO
Using common seal – Multi-person Company: One Director only signs	NO
Using common seal – Sole person Company: Sole Director & Secretary signs	NO
Using common seal – Sole person Company: Sole Director signs	NO
Using common seal – Authorised Officer	NO
Without common seal – Multi-person Company: Director & Director or Director & Secretary signs	NO
Without common seal – Multi-person Company: One Director only signs	NO
Without common seal – Sole person Company: Sole Director & Secretary signs	NO
Without common seal – Sole person Company: Sole Director signs	NO
Without common seal – Authorised Officer	YES
Attorney (under PoA)	YES
Australian Legal Practitioner	NO
Licensed Conveyancer	NO

- **Other Organisation**

Signing Party	NT
Attorney (under POA)	YES
Australian Legal Practitioner	NO
Licensed Conveyancer	NO
Using common seal – Authorised Officer	NO
Without common seal – Authorised Officer	YES

On paper – signed by mortgagee only (with certifications)

Any inapplicable certification statement(s) must be deleted.

Certification statements must be made by a person, being one of the following:

- (a) The mortgagee
- (b) A solicitor or other agent of the mortgagee
- (c) If the applicant is not represented by a solicitor or other agent of the mortgagee – the applicant (i.e. self-represented party)
- (d) If a party to an instrument is not represented by a solicitor or other agent of the mortgagee – that party (i.e. self-represented party)

The mortgagee must execute by providing the following required certifications for the mortgage:

- The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant law and any Prescribed Requirement.
- The Certifier has retained the evidence supporting this Registry Instrument or Document.
- The Certifier, or the Certifier is reasonably satisfied that the mortgagee it represents:
 - (a) has taken reasonable steps to verify the identity of the mortgagor; or his, her or its administrator or attorney and
 - (b) holds a mortgage granted by the mortgagor on the same terms as this Registry Instrument or Document.

All certifications apply where the person is a solicitor or other agent of the mortgagee.

Only certifications three to five apply where the person is the mortgagee (or an employee of a body corporate that is a mortgagee).

The Registrar-General's Verification of Identity and Verification of Authority requirements must always be complied with.

Further witnessing requirements:

Qualified witnesses as mentioned in Schedule 1 of the *Land Title Act* and Registrar-Generals' Directions must take reasonable steps to ensure that the person is the person entitled to sign the document, have the person execute the document in their presence and not be a party to the instrument.

The witness must sign his or her name and print his or her full name, address and business hours telephone number legibly beneath his or her signature.

For a National Mortgage a 'same terms mortgage' held by a Subscriber under Participation Rule 6.13.1 that is not lodged for registration is not required to meet the requirements in the *Land Title Act 2000* etc for instruments that are lodged for registration (including any requirement for an instrument to be in the appropriate form or requirements relating to execution and witnessing).