

CLIENT AUTHORISATION AND VERIFICATION OF IDENTITY CONCERNS AS A RESULT OF CONSULAR ASSISTANCE BEING UNAVAILABLE

ARNECC is aware of concerns regarding the face-to-face identity verification regime and signing of Client Authorisations in certain countries where consular assistance may not be available. Whilst it is critical that the integrity of the Land Titles Register in each jurisdiction is maintained, ARNECC also appreciates that situations can arise that may create safety and wellbeing concerns for Subscribers, their clients or customers and the broader community.

ARNECC provides additional guidance for Subscribers and their customers who may be impacted by the unavailability of consular assistance.

Client Authorisation

[Model Participation Rule Guidance Note #1 – Client Authorisation](#) published on the ARNECC website provides guidance around the Client Authorisation requirements. Of specific relevance under the current circumstances is Section 5 of the Guidance Note which outlines how a Client Authorisation is completed, and the following FAQs:

Q13: Can a Client Authorisation be Digitally Signed?

A13: There is no requirement in the Electronic Conveyancing National Law or Participation Rules that the Client Authorisation form needs to be wet-signed. Therefore, it is up to the Subscriber to determine whether the act of the Client or Client Agent digitally signing the Client Authorisation form complies with the Electronic Transactions Act relevant to the Jurisdiction in question.

Q33: Does the Client Authorisation need to be witnessed? If so, who can witness a Client Authorisation overseas?

A33: Whether the Client Authorisation requires a witness depends on how the Client Authorisation is being completed, and whether the Verification of Identity Standard is being used. For example, if the Client Authorisation is being signed overseas, and the Subscriber is using the Verification of Identity Standard, the Client Authorisation must be signed at an Australian Consular Office. The Australian Consular Office witnesses the signing of the Client Authorisation and the name of the Australian Consular Office Witness is completed on the Client Authorisation along with the date. If a Subscriber chooses not to apply the Verification of Identity Standard and takes alternate steps to identify their Client, that they determined were reasonable, they may direct their Client to complete the document in front of a different witness, or direct their Client to complete the Client Authorisation electronically, where a witness may not be required. It is up to the Subscriber to ensure that they are complying with the relevant laws in the jurisdiction in which the property is situated.

Refer to [Model Participation Rules Guidance Note #2: Verification of Identity](#) for information about verifying identity, including the Verification of Identity Standard.

Verification of Identity

Model Participation Rule (MPR) 6.5.2, states that the Subscriber, or a mortgagee represented by the Subscriber, can either:

- a) apply the Verification of Identity Standard; or
- b) verify the identity of a Person in some other way that constitutes the taking of reasonable steps.

While the Verification of Identity Standard requires a face-to-face in person interview, compliance with the Standard, it is not mandatory under MPR 6.5.2. A Subscriber can verify the identity of their client or customer in a way that constitutes reasonable steps. It is a matter for the Subscriber to determine what constitutes reasonable steps specific to the circumstances.

Q1: How do I verify the identity of my Client or Client Agent who is overseas?

A1: You need to decide what steps to take to verify the Person's identity having regard to the available services and options under the circumstances. One option may be to utilise the services of an Australian Embassy, High Commission or Consulate (as set out in the Appendix), coupled with further steps in order for the Subscriber or mortgagee (represented by a Subscriber) to be reasonably confident in the Person's identity. Further steps may include: making enquiries with the Client or Client Agent or third parties, where the identity Documents are Australian using electronic verification services, where it is a foreign identity Document checking the Document looks the same as on the respective country's government website, where the identity Document is in another language having the identity Document translated by an authorised translator, or where the verification is unable to be conducted face-to-face due to remoteness conducting the verification by electronic means with further steps to satisfy yourself of the Person's identity.

As usual, evidence supporting the reasonable steps taken to verify the client's identity must be retained by the Subscriber under MPR 6.6(d). [Model Participation Rules Guidance Note #2: Verification of Identity](#) provides further guidance for Subscribers.