

# Signing & Witnessing Requirements in the Australian Capital Territory

Paper Mortgages – when lodged in paper at the Land Titles Office and the mortgagor or mortgagee signing is a:

- **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 an adult (over 18) who is not a party to the mortgage.

- **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 an adult (over 18) who is not a party to the mortgage.

- **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**

Section 55(1) of the *Associations Incorporation Act 1991* provides that a document made by an incorporated association may be authenticated by the signature of the public officer or secretary and need not be authenticated under the common seal. Where a public officer or secretary signs on behalf of an association, the signature should be witnessed in the normal manner. The full name and position of the authorised person should be printed under their execution.

**Further witnessing requirements:**

The witness must sign his or her name and print his or her full name and address legibly beneath his or her signature