

***The Electronic Information and Documents (Remote Witnessing) Amendment Regulations,  
2020***

**Q&A**

**Q. What does *The Electronic Information and Documents Act, 2000* do?**

A. *The Electronic Information and Documents Act, 2000* provides for the legal recognition of documents in electronic format where legislation asks for documents to be provided “in writing”. This Act of general application has facilitated translation from paper to the broad usage of electronic documents in the private and public sector without requiring each individual Act or regulation to be amended to allow for electronic documents. The Act does, however, exempt certain documents from the Act so that the paper only requirements are not over-ridden by the Act e.g. wills.

**Q. What is the purpose of the Act?**

A. The Act facilitates the use and acceptance of electronic information and documents by people who wish to do so. The Act ensures that people who wish to deal with each other electronically can do so despite the existence of certain legal requirements that seem difficult to satisfy electronically, for example providing a document in writing, providing a signature, or in this case the witnessing of documents.

**Q. What does the Act apply to?**

A. The Act applies to contracts, legal relationships and legal obligations. In this case, the Act and new Regulations apply to the legal obligation to have a document executed before or in the presence of another individual. The Act introduces the basic principles or concepts into the law of Saskatchewan, and operates as a framework for existing enactments.

**Q. What will these Regulations do?**

A. The Regulations will use the general application authority to provide that a lawyer may commission an affidavit or witness the signing of a document remotely using audio-visual technology. The Regulations include safeguards such as requiring that the person be a lawyer, that the lawyer take reasonable steps to verify the identity of the person providing the document, and that the lawyer comply with any other requirements made by the Law Society of Saskatchewan.

**Q. What will the Regulations apply to?**

A. *The Electronic Information and Documents Act, 2000* is an Act of general application, like *The Legislation Act*, and applies to all other Acts unless they expressly address the issue themselves, such as in *The Land Titles Regulations, 2000*, or the Act is excluded from the operation of *The Electronic Information and Documents Act*, such as *The Wills Act, 1996* and *The Powers of Attorney Act, 2002*.

**Q. Why is this required?**

A. Across provincial legislation there are documents that are required to either be sworn or declared before or witnessed by an individual. The Regulations allow the remote witnessing provisions created during the public emergency period to continue to apply outside an emergency period.

**Q. Does this apply to the authorizations required under *The Land Titles Act, 2000*?**

A. No. Authorization and witnessing requirements for applications to the land registry are governed by *The Land Titles Act, 2000* and *The Land Titles Regulations, 2000*.

**Q. The Court of Queen's Bench has issued a directive indicating it will accept unsworn affidavits in certain circumstances, does this Regulation change that directive?**

A. The Court is entitled to accept documents in any form it determines appropriate. The specific direction from the Court that it will accept unsworn documents in certain circumstances is a specific direction that would take priority over the general provision in the Regulations.

**Q. Do these Regulations require that affidavits, for example, be sworn via electronic communication?**

A. No, the Regulations provide remote witnessing as an option, but individuals may continue to choose to witness documents in person.

**Q. What types of documents may be executed using *The Electronic Information and Documents (Public Emergencies) Regulations*?**

A. Affidavits, agreements and contracts, agreements for sale, mortgages, loans and other financial instruments, and many other documents prepared and sent to Saskatchewan lawyers.

**Q. Why do the regulations only apply where the person receiving, witnessing or commissioning a document is a lawyer?**

A. The Regulations apply where the person receiving, witnessing or commissioning a document is a lawyer, as defined in *The Legislation Act*, to attempt to minimize some of the risks associated with video witnessing and commissioning. There are concerns with respect to remote witnessing and commissioning including the increased possibility of fraud, undue influence and duress and whether the individual has capacity. Lawyers are required to be members of the Law Society of Saskatchewan or authorized to practice in accordance with clause 10(i) of *The Legal Profession Act, 1990*, and comply with the requirements set by the Society.