



Law Council
OF AUSTRALIA

Modernising Document Execution

Department of the Prime Minister and Cabinet

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About the Law Council of Australia

The Law Council of Australia exists to represent the legal profession at the national level, to speak on behalf of its Constituent Bodies on national issues, and to promote the administration of justice, access to justice and general improvement of the law.

The Law Council advises governments, courts and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world.

The Law Council was established in 1933, and represents 16 Australian State and Territory law societies and bar associations and Law Firms Australia, which are known collectively as the Council's Constituent Bodies. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Australian Capital Territory Law Society
- Bar Association of Queensland Inc
- Law Institute of Victoria
- Law Society of New South Wales
- Law Society of South Australia
- Law Society of Tasmania
- Law Society Northern Territory
- Law Society of Western Australia
- New South Wales Bar Association
- Northern Territory Bar Association
- Queensland Law Society
- South Australian Bar Association
- Tasmanian Bar
- Law Firms Australia
- The Victorian Bar Inc
- Western Australian Bar Association

Through this representation, the Law Council effectively acts on behalf of more than 60,000 lawyers across Australia.

The Law Council is governed by a board of 23 Directors – one from each of the constituent bodies and six elected Executive members. The Directors meet quarterly to set objectives, policy and priorities for the Law Council. Between the meetings of Directors, policies and governance responsibility for the Law Council is exercised by the elected Executive members, led by the President who normally serves a 12 month term. The Council's six Executive members are nominated and elected by the Board of Directors.

Members of the 2021 Executive as at 1 January 2021 are:

- Dr Jacoba Brasch QC, President
- Mr Tass Liveris, President-Elect
- Mr Ross Drinnan, Treasurer
- Mr Luke Murphy, Executive Member
- Mr Greg McIntyre SC, Executive Member
- Ms Caroline Counsel, Executive Member

The Chief Executive Officer of the Law Council is Mr Michael Tidball. The Secretariat serves the Law Council nationally and is based in Canberra.

Acknowledgement

The Law Council is very grateful for the contribution of its Modernising Document Execution Working Group in preparing this submission. The Modernising Document Execution Working Group consists of members of the Law Council's Business Law Section and representatives from several Constituent Bodies.

The Law Council is also appreciative of feedback received from the Law Society of New South Wales, the Law Society of South Australia, the Queensland Law Society, and the New South Wales Bar Association.

Introduction

1. The Law Council welcomes the opportunity to respond to the Australian Government's consultation on a common pathway for digital execution of statutory declarations and deeds. The Law Council, through its Modernising Document Execution Working Group, is particularly appreciative of the opportunity to have engaged closely with the Department of the Prime Minister and Cabinet (**PMC**) throughout the consultation process.
2. This submission provides the Law Council's preliminary views with respect to the issues raised in the PMC paper titled *Modernising Document Execution: Consultation on a common pathway for digital execution of statutory declarations and deeds* (**Consultation Paper**). Responses to each of the Consultation Paper questions are set out below, together with further reflections from the Law Council on the areas of priority for the modernisation of document execution in Australia.

General comments

Support for reform

3. As the Law Council set out in its submission last year to the Senate Select Committee on COVID-19's inquiry into the Australian Government's response to the COVID-19 pandemic, it has been particularly difficult for members of the legal profession and their clients to sign and witness documents during lockdown.¹
4. The Law Council has therefore commended the temporary measures introduced to assist persons and companies to meet their obligations under the *Corporations Act 2001* (Cth) to execute documents, by allowing documents to be in electronic form, and to be executed using electronic means (or e-signatures). Ensuring the validity of signing and executing documents electronically, where appropriate, ought to remain a priority law reform area. Similar reforms across States and Territories have occurred to varying degrees, and while in many cases this has led to improved processes, it has reinforced the critical importance of consistency across jurisdictions, which is currently lacking.
5. The experience of the bushfires of the summer of 2019/20 and, more recently, the COVID-19 pandemic, highlights the practical difficulties that arise during natural disasters, and which are encountered often in regional, remote and rural (**RRR**) areas as well as the importance of keeping pace with modern global business practices.
6. There is overwhelming support for meaningful reform in the area of electronic document execution, and the Law Council encourages continued engagement beyond the current consultation so as to more comprehensively deal with matters such as creating certified copies of documents, witnessing processes for electronic signatures, and ensuring that measures are included to reduce opportunities for fraud and abuse in the utilisation of new methodologies.
7. The Law Council is particularly supportive of reform measures that will streamline rules and create a consistent set of document execution requirements across jurisdictions. In doing so, the Law Council endorses the use of a principles-based framework to underpin reforms and emphasises the need for any legislative scheme to avoid overly prescriptive rules. Where prescriptive rules are maintained in legislation, these should be used to

¹ Law Council of Australia, *Submission to the Inquiry into the Australian Government's response to the COVID-19 pandemic* (15 June 2020) 14.

establish safe harbours to create a degree of certainty for parties utilising electronic document execution.

8. State and territory legislation largely governs execution of documents, with, as we have observed, inconsistent requirements. The Law Council notes the potential for even greater inconsistency between jurisdictions, as states and territories have separately developed innovative ways to ensure matters such as contract execution can proceed despite lockdown measures. An important issue to consider is the possibility of harmonising, where possible, electronic (and indeed paper-based) execution requirements across the states and territories, not just in cases of emergency, given that commercial and personal transactions regularly cross jurisdictional boundaries. The absence of such uniformity, through the period of the COVID-19 pandemic, has significantly hampered the efficacy of reforms.

The need for a carefully considered approach

9. While noting the Law Council's support for modernising the framework to better facilitate document execution, there are a range of views within the legal profession as to how far this process should extend. For example, the Law Council has received input from at least one of its Constituent Bodies which raises a concern about the suggestion throughout the Consultation Paper that formality is a barrier to modern business practices and communication, noting that formality may exist for a reason, and is why the documents are referred to in nature as 'solemn'. The Law Council would suggest that formality can be retained where appropriate, albeit adapted to the exigencies of electronic communications and the technology of 2021 and beyond. Formalities that simply assume a 'paper based' way of transacting should be adapted and updated.
10. Throughout the reform process, the Law Council encourages an approach that emphasises facilitation of document execution without unnecessary technical requirements, while recognising that existing benefits of current legal requirements for execution and witnessing should be retained and where possible enhanced.

Response to consultation questions

Question 1

As a business or as an individual, when and why do you use statutory declarations or deeds? Please provide any examples of the costs involved in the process. Why might you use a statutory declaration over a standard declaration, or a deed over a contract?

11. It is noted that the Consultation Paper, at times, conflates deeds and statutory declarations. It is important to keep in mind throughout the consultation process that there are different considerations between the two.
12. At a basic level, deeds are principally relied upon in the commercial context (including small and family business and family arrangements), while statutory declarations are used for a range of different purposes. Depending on the nature of the legal matter, clients may be required (by legislation in certain jurisdictions) to provide information by way of a statutory declaration. In addition, some statutory forms such as Notice of Claim forms under the *Personal Injuries Proceedings Act 2002* (Qld) require the claimant to make a declaration under the *Oaths Act 1867* (Qld). There are many other examples across jurisdictions where such requirements exist. Statutory declarations are also used for evidentiary purposes in a range of non-judicial proceedings, such as arbitrations.

13. In New South Wales (**NSW**), Land Registry Services makes use of statutory declarations to resolve various issues involving requisitions issued for registrable dealings. Other examples include the use of a statutory declaration in response to requisitions raised by Revenue NSW regarding duty exemptions on deeds of trust, and the use of statutory declarations to support probate applications in the Supreme Court of NSW. At the Federal level Statutory Declarations are the standard form of evidence in proceedings before the Registrar of Trade Marks and for providing evidence in response to Examination Reports.
14. Deeds are widely used in legal practice, especially in litigation settlements, certain business transactions, and property transactions. Deeds may also be used where it is inappropriate to record an agreement in a contract or where there are doubts about the existence or adequacy of 'consideration' to support the obligations therein, or to attempt to extend the timeframe within which to sue for breach. Deeds of guarantee are a further example of where deeds may commonly be required.
15. Deeds of trust are a well-known example to support the declaration of a trust, and deeds of variation are commonly used to amend executed deeds or agreements, and may be required to amend a deed, including a deed of trust (such as for family trusts). Other commonly used deeds, as outlined in the Consultation Paper, include deeds of confidentiality and deeds of settlement and release.
16. In the execution of even a simple deed of variation, there are costs incurred in the process of arranging and checking execution and witnessing. There can be significant time and costs involved in dealing with paper-based documents, including the process of having them executed and exchanged between the parties. There is considerable scope for savings (of time and money) if documents can be electronically prepared, signed, witnessed and exchanged.
17. In many respects, deeds are relied upon because of their consistent use over many years. There is an element of convenience and familiarity with deeds, despite the additional formalities. While the Law Council supports the consultation in re-thinking the use of deeds from first principles, it is worth noting that if the use of deeds did not have a place in the current climate, parties would likely have stopped using deeds in instances where they are not mandated. The very fact that they are commonplace reinforces the view that there is still a place for deeds in the contractual landscape, albeit with opportunities to better facilitate the execution process as discussed throughout this submission.

Question 2

What barriers, challenges or difficulties have you experienced with physical document execution? Do you have examples relating to paper requirements, witnessing requirements or jurisdictional inconsistencies? Are there other barriers that aren't captured here? What can we learn from international approaches?

18. Many of the challenges or difficulties faced by those seeking to enter into electronic transactions stem from the lack of uniformity across jurisdictions, and the Law Council submits this should be a key focus of any reform, noting that consistency, even if not perfect, would be a major step forward. In relation to deeds, the various and inconsistent formal (and in some cases archaic) state-by-state requirements mean that electronic document execution of deeds across jurisdictions is at worst impossible, and at best fraught with danger.

19. In terms of difficulties identified by the legal profession, there is clearly additional time and cost (both financial and environmental) involved in arranging and attending the face-to-face execution and witnessing of a deed or statutory declaration. Difficulties experienced with physical document execution include cost and time burdens on clients in either:
- attending upon a law office to review and execute a document;
 - receiving a document electronically and printing the document, or receiving it via post, then taking it to a qualified witness and, once executed, providing the document back to their lawyer (either by hand delivery or via post); or
 - errors in printing or collating documents (e.g., due to formatting issues arising during transmission) and returning incorrectly printed or signed documents to lawyers.
20. Further examples of problems that can occur include where declarations are not signed in the presence of a qualified witness, or when the witness has failed to properly state how they identified the declarant, requiring the declarations to be re-executed.
21. These challenges are pronounced when the client and lawyer are not located within a reasonable distance of each other and thus there are delays in progressing a matter or further complications where a document requires amendment before it is executed. The whole process is made more inflexible by requiring physical document execution or so-called 'wet ink' signatures redolent of the days of the quill.
22. The following example provided by the Queensland Law Society illustrates these challenges:
- One of our Queensland-based members was acting for a client in New South Wales who needed to lodge a statutory declaration in South Australia in respect of goods that had been detained (in order to facilitate release [by a landlord]). The relevant director (of the client) was in New Zealand in lockdown and there was no ability to do remote signing and witnessing etc. Our member had to arrange for their client to appoint a director in NSW with authority to sign the statutory declaration (which also presented challenges because of lockdown), have it appropriately witnessed (to meet the SA requirements), then have this director immediately removed after making the declaration.*
23. Face-to-face execution can also be particularly problematic in RRR areas where the nearest prescribed witness may be some distance away. Difficulties can also arise due to public health restrictions, the parties' age, illness or disability, or risk of domestic or family violence.
24. As stated in the Consultation Paper, paper-based execution methods can also be inconsistent with contemporary commercial practice, especially when compared with international jurisdictions.

Question 3

What would you consider to be a desirable outcome from reforming document execution? Are these the right principles for reform? Are there other outcomes or principles we should consider?

25. A key goal for the reforming document execution process should be to obtain consistency in approaches across jurisdictions, including clarity as to the cross-jurisdictional operation of documents. Where consistency is not practicable, some form of mutual recognition of validity would go a long way to improving the current situation and providing certainty to parties.
26. A second key goal should be to streamline and simplify deed and statutory declaration processes where possible.
27. The Law Council strongly advocates for the law to categorically accommodate the remote and electronic execution and witnessing (to the extent that witnessing requirements are retained) of those documents identified in the Consultation Paper. Technology-neutral and readily available methods should be utilised rather than requiring further costly investment(s) in technology solutions which will create barriers. In this regard, the Law Council cautions against overly prescriptive rules that do not allow for flexibility in the manner in which a document is electronically executed, noting that such prescription may provide unnecessary hurdles or pitfalls as opposed to improving facilitation of agreements. The objective must be to reduce regulatory friction in the conduct of trade and commerce in Australia. The potential for massive savings in time and expense is self-evident if the significant practical logistical impediments that currently exist can be reduced if not entirely eliminated.

Question 4

Should electronic execution of statutory declarations and deeds be permitted? What would be the benefits and costs for you of digital options?

28. There has been a longstanding need to modernise the way in which documents identified in the Consultation Paper are created and used. Permitting electronic making, signing and witnessing (if witnessing is required) for statutory declarations and deeds will improve access to justice, from both a cost and efficiency perspective. Importantly, this will provide particular benefits for vulnerable people and people who live and work regionally or remotely.
29. Digital options for executing documents which have been available during the pandemic have allowed parties to create and execute documents without the significant impost on their health, time, caring responsibilities and finances (travel and other costs) that physically attending an office necessitates.
30. Further, dealing with documents in this manner greatly improves efficiency for law firms and their clients and reduces costs. More broadly, the flow on effects for courts, government departments, other agencies and the community of a more cost effective and timely delivery of documents and progression of legal matters will be significant.
31. The Law Council therefore agrees that electronic execution of statutory declarations and deeds should be facilitated. The benefit is principally in the elimination of the time and cost for matters involving these documents, as well as potentially avoiding the extreme costs and disadvantages of invalidity of documents that have not been properly executed due to a failure to comply with formalities.

Question 5

Is witnessing a necessary requirement for statutory declarations and deeds? Are there documents that should still require the presence of either a physical witness or a witness over AVL? Do advances in digital identity verification make witnessing requirements redundant?

32. The Law Council is conscious that there are a range of views across the legal profession as to the necessity of witnessing statutory declarations and deeds.
33. For those in favour of retaining witnessing requirements, whether conducted in person or remotely, there is a recognition that while a witness does not attest to the veracity of the contents of the document, their involvement contributes to the formality and solemnity of the document. In the case of deeds, the comments of Young J in *Manton v Parabolic Pty Ltd*² provides some support for this view:
- ... the essential element of a deed is that it be the most solemn act that a person can perform with respect to a particular piece of property or other right.*³
34. In relation to deeds, the need for formal execution and witnessing is to bring about certainty and means of proof of execution, and it may be suggested that these requirements (which have been developed by the common law over many centuries) may mean that a person is available to provide evidence about whether the signatory has entered into the document of his or her own free will without any coercion, fraud, forgery or in circumstances considered unconscionable, unfair or deceptive, although in practice a person who merely sees a person signing a document without more may in fact be unable to provide such evidence. In other words, the role of witnessing should not be overstated and the fact that witnessing may on occasions provide such evidence does not mean that this is the primary purpose of a witnessing requirement.
35. However, it should be recognised that the absence of witnessing requirements for deeds in several jurisdictions, notably Queensland (albeit temporarily) and Victoria, does not appear to have created significant problems in this regard.
36. Whilst the purpose of the witnessing requirement may have been originally to protect against fraud, the Law Council notes that electronic execution is, by definition, less susceptible to fraud, given the digital record that is necessarily created by any form of electronic execution. Hence, the Law Council submits that consideration should be given to dispensing with witnessing where technology can provide sufficiently robust evidence of due execution.
37. It is noted that the issue of witnessing deeds was considered by the NSW Government in 2018 when section 38A was added to the *Conveyancing Act 1919* (NSW). This section allows a deed to be created in electronic form and electronically signed and attested. Prior to this change, the NSW Government engaged in consultation as to whether the requirement for witnessing should be removed. It decided to retain the requirement but with the explicit validation of electronic and digital methodologies.
38. Regardless of whether witnessing requirements for deeds are removed, the Law Council notes that parties should not be legislatively prevented from requiring a witness to be physically present or present via audio visual link should they require this. An individual's current inability to execute a deed remotely is a material impediment and an

² (1985) 2 NSWLR 361.

³ *Ibid*, at 369.

unnecessary one with no sound policy justification, provided remote witnessing or other means of authentication are sufficiently robust.

39. For statutory declarations, verifying a person's identity is a separate issue to being confident that a party understands the solemnity of signing the document. If the witnessing requirement is removed for statutory declarations, parties/government agencies may create new substitute forms that still require it. Instead, at least one of the Law Council's Constituent Bodies has recommended that consideration be given to a requirement for a 'special witness' to provide some additional protection in these circumstances. The myGovID is already well accepted for lodgement of important documents such as tax returns and government assistance applications without witnessing and without fresh identity verification being required for every instance. The more universal the usage of such trustworthy digital credentials the more efficient can be its adoption for purposes such as those under discussion here.

Question 6

What minimum reliability requirements should apply to the electronic execution of statutory declarations and deeds? Are the existing provisions in the ETA appropriate and effective? From your perspective, would providing common requirements and definitions, enabling digital verification or improving national usability increase reliability?

40. Legal practitioners are generally familiar with the existing provisions of the *Electronic Transactions Act 1999* (Cth) (ETA) and its State and Territory counterparts, and in general terms the Law Council considers that its terms are suitable, noting that the legislation is not uniform when regard is had to the respective regulations, and the ETA requires counterparty consent for electronic signature, a requirement that should be removed.
41. In ensuring the reliability of certain forms of electronic signatures, common processes, standards and definitions across jurisdictions may assist in minimising confusion across jurisdictions and improving national usability and reliability. As technology develops, the use of the Face Verification Service (FVS) and digital signatures may become more prevalent. It is considered that a national standard for the use of both will support the success of any reform. The existing Document Verification Service also has potential to be utilised in far more circumstances, including by the private sector. Nevertheless, as stated earlier, the Law Council cautions against overly prescriptive requirements that might create barriers to reform.

Question 7

What processes and/or technologies do you consider appropriate for executing statutory declarations and deeds electronically? Please provide examples.

42. Generally, execution and witnessing requirements should be technology neutral. As stated above, if technologies such as digital signatures and FVS are permitted, they should be subject to a uniform standard across all jurisdictions and any software utilising these standards should be easily accessible to legal practitioners and the general public. In relation to witnessing, technologies (such as FVS) should be used only where the function sought to be achieved by witnessing is performed by the technology. For example, identity verification witnessing is a very different function to capacity/non-duress verification. Care needs to be taken to ensure that, where technology is

substituted for traditional means, it is considered valid where it in fact satisfies the functional requirements of the circumstances.

43. Technology changes at a rapid rate and so any prescriptive requirements must be technology neutral and drafted in such a way as to allow the legislation respond to ongoing change. This can be achieved through providing general technology neutral principles while having specific requirements that can be dealt with through delegated legislation.

Question 8

Have you experienced problems with executing documents across jurisdictions? Please outline what issues you faced. How would greater consistency affect you?

44. It is quite common for a party to or a witness in a legal matter or proceeding to be based in another jurisdiction. This creates difficulties which would be lessened with electronic document execution and the acceptance of electronically signed documents by courts, government departments and other parties (noting that the current consultation is limited to deeds and statutory declarations).
45. Problems associated with inter-jurisdiction execution of documents principally come from the time and cost involved in adapting to different requirements, from the need to re-execute documents which have been executed incorrectly, and the costs and disadvantages of documents that are later discovered to be invalid. These issues would be reduced through the introduction of consistent provisions across jurisdictions and through clarity as to the cross-jurisdictional requirements for execution of documents.
46. The ability to execute a document in one jurisdiction, for use in another, would alleviate the burden of cost and delay associated with compliance with different regimes.
47. The impacts of the pandemic are the most recent lived experience of physical challenges with executing documents across jurisdictions. However, Australia is frequently affected by natural disasters which also prevent parties from travelling for significant periods of time. The impact of natural disasters is a further reason to progress the modernisation of document execution legislation, as is the systemic problem of rural and remote townships and farms in accessing JP and like services in a timely and cost-effective way.

Question 9

Are there risks with document execution that might lead to an adverse outcome for you, your clients or other third parties as a result of reforms to document execution?

48. As for paper-based execution, there are risks associated with the reliability of a digitally executed document which include:
- verification of identity (**VOI**) of the signatory and witness;
 - the risk of error (for example by ensuring the witness is able to manage the process so that the document is executed correctly); and
 - the risk of fraud or undue influence/duress.

49. In relation to the last of the above points, arrangements that permit the remote signing and witnessing of documents may need to be balanced with appropriate safeguards to prevent such provisions from being abused and to forestall any unintended adverse consequences brought about by alternatives to in-person formalities. It is important that the law continues to provide suitable safeguards in appropriate circumstances to ensure the integrity of the signing of documents to ensure that vulnerable individuals are not coerced into financial transactions, noting however that the current consultation is not intended to cover documents such as enduring powers or attorney or wills that may have special witnessing requirements.
50. One option to address this risk as it relates to remote witnessing is to narrow the scope of the persons who can witness via audio-visual link to a limited number of 'special witnesses', as is currently being proposed in the Justice Legislation (COVID-19 Emergency Response — Permanency) Amendment Bill 2021 (Qld).⁴ Whether this type of measure should be applied generally to witnessing of documents should be a matter for further consultation.
51. While risks, including those relating to potentially vulnerable signatories, are just as present in paper-based processes, they need to be considered in the context of digital or electronic processes for the purpose of any reform measures – not because technology is more susceptible to fraud or misuse (the reverse is generally the case) but because when it does occur it may be extremely difficult to detect and prove. Public education may be needed to help guard against misuse of digital credentials, for example.
52. Robust VOI procedures are already implemented by law firms across the country and such procedures would need to be revisited in the context of any reforms involving VOI requirements. Nationwide guidance on the electronic execution of deeds and statutory declarations, if implemented, will also be needed.
53. There may also be risks that are specific to digital or electronic processes, such as cyber-security risks.
54. However, the risks associated with modernising document execution should be balanced with an acknowledgement there are, as noted above, similar risks associated with paper-based documents. A disproportionate focus during this reform process on eliminating risk could lead to quite specific, prescriptive and restrictive requirements, which might in turn reduce the broader benefits and defeat the purpose of the reforms to facilitate document execution.

Question 10

Do you have suggestions as to other potential reforms relating to document execution?

55. In summary, the Law Council is supportive of the use of digital or electronic signatures and reforms to enable deeds and statutory declarations in digital or electronic form, and FVS and nationwide VOI standards to coincide with nationwide digital execution reform.
56. Further, it is considered that any proposed legislative solution should make it clear that the historical common law requirement for deeds to exist in 'paper, parchment or vellum' (to the extent that this still applies) is removed. Regardless of the need for witnessing to

⁴ See proposed clause 12.

occur, the archaic requirement for such agreements to exist on paper (etc) does not align with contemporary expectations.

57. There should be ongoing consultation as to what further reforms are necessary.
58. The Law Council would support exploring whether the Commonwealth could legislate to facilitate uniform national requirements for execution of deeds under the Commonwealth's various heads of power (corporations including foreign corporations, trade and commerce with other countries, bankruptcy, banking, insurance and the postal and telecommunications power). State-level inconsistencies should have no place in global commerce; national uniformity if not international uniformity is an imperative, and United Nations Commission on International Trade Law (**UNCITRAL**) model laws should be utilised to the maximum extent.⁵

Question 11

Are there other issues with document execution not canvassed in this paper that you wish to share?

59. As stated above, consistency between jurisdictions in the execution and recognition of valid documents should be a primary goal of any reform. However, it is noted that even if legislative schemes are aligned, there may still be an opportunity for major sectors such as banking and finance, as well as state-based agencies (e.g. land titles offices and state revenue bodies), to impose their own internal requirements which may reduce the benefits of reform. To address these challenges, the current review process should strive for a uniformity across sectors that clearly and expressly displaces common law procedures, and should encompass all state and territory agencies, while only allowing for exceptions if justified by the most exceptional circumstances.
60. It is important that governments work closely with these sectors to ensure there is adequate recognition and understanding of any reformed legislative scheme so that, in practice, the efficiencies gained through the reforms are able to be fully realised.

Next steps

61. The Law Council notes the current consultation represents an early step in an extensive and comprehensive reform initiative, as reflected by the high-level nature of the questions posed in the Consultation Paper. It is further recognised that an interest in pursuing reforms to document execution has been given a degree of priority as a result of the COVID-19 pandemic; it is important that the momentum gained over the past 18 months is not lost just because the urgency has reduced as cities emerge from lockdown.
62. The Law Council strongly encourages the Australian Government to continue to pursue pragmatic reforms to document execution in collaboration with the States and Territories. In the short term the arrangements put in place during COVID-19 should be made permanent, pending the outcome of a more comprehensive national process with terms of reference to develop specific reform proposals and draft legislation within, say, a 6 to 12-month timeframe, followed by stakeholder consultation.

⁵ See, <<https://uncitral.un.org/en/texts/ecommerce>>.

63. As noted at the outset, the Law Council has supported temporary reforms to the Corporations Act to facilitate document execution at the Commonwealth level, and will continue to support further changes across jurisdictions that are consistent with these reforms. Reform measures should complement progress, and preserve continuity in the steps taken to date. This will clearly require in-depth engagement with the states and territories in order to achieve the key goal of consistency, and the Law Council welcomes the opportunity to stay involved, or indeed assist more pro-actively, in this next stage.