

- section 9, 11, 13, 22 or 23 of *The Homesteads Act*

A. Determine the Actors

Actors:

- **Person A:** the witness
- **Person B:** the person giving consent

B. Follow Each Applicable Step

STEP 1: Confirm identity

Person A satisfies themselves as to the identity of Person B by way of:

- (a) Person B being personally known to Person A; or
- (b) Person B proving their identity to the satisfaction of Person A.

STEP 2: Confirm communication method satisfactory

Person A and Person B confirm that they are able to see and hear one another while the action is being taken.

STEP 3: Confirm Document

Person A sees the document in Person B's possession before Person B signs it.

STEP 4: See Document Signed

Person A sees Person B sign the document.

STEP 5: Confirm same document

Person A sees the document immediately after Person B signs.

STEP 6: Receive signed document

Person A receives the signed document and is satisfied that

- (a) it is the same one that Person A saw in Person B's possession;
- (b) the signature on the document matches the one Person A saw being made.

STEP 7: Sign document and confirm how identity was verified

Person A signs the document and records in writing that the document was signed through a glass or plexiglass partition **or** by videoconference and how Person A satisfied themselves as to the identity of Person B.

C. Additional Requirements or Steps

***Homesteads Act* – registration of consent where videoconferencing used**

STEP 8: Sign Videoconference Certificate

For a *Homesteads Act* document presented for registration in the Land Titles Office that is witnessed by way of videoconferencing, Person A must sign a certificate in a form approved by the Registrar-General, namely Form 32. To be clear when using Form 32, the witness:

Must Identify:

- (a) How the executing party was provided with the instrument to be executed (e.g. regular mail, fax, email, etc.).
- (b) Why in person witnessing could not occur and video witnessing was required (e.g. Due to self-isolation, quarantine, to comply with social distancing orders) and

And Must Certify:

- (a) That the witness is satisfied as to the identity of the executing party either because:
 - i. The executing party is personally known to them; or
 - ii. The identity of the executing party was proven to their satisfaction, together with details as to manner in which this satisfaction was achieved.

- (b) The signature was witnessed in a single session during which the witness observed the person signing the instrument and was able, at all times, to see and hear the person signing the instrument.
- (c) For all instruments generating separate signature pages:
 - i. prior to execution, the witness saw both the control image and 32 digit control number generated by the form and that these matched the control image and control number of the version of the form sent to the executing party; and
 - ii. subsequent to execution, the witness saw both the control image and 32 digit control number of the executed signature page and that these matched the control image and control number of the form sent to the executing party.
- (d) For instruments which do not generate signature pages, but do require witnessing:
 - i. prior to execution, the witness saw the instrument in the possession of the executing party and confirmed to their satisfaction that it was the same instrument sent to the executing party; and
 - ii. subsequent to execution, the witness saw the executed instrument in the possession of the executing party and confirmed to their satisfaction that it was the same instrument sent to the executing party.
- (e) Subsequent to execution, the original, signed copy of the instrument was received by the witness who verified that the content of the instrument received was identical to the instrument sent to the executing party (but for the addition of the executing party's signature and any other marking required to be made by the executing party) and then affixed their signature as witness.

Homestead consents are contained within the body of *Real Property Act* documents such as transfers or mortgages. All other "*Homesteads Act* documents", including notices and releases, are created in accordance with the forms set out in Homesteads Forms Regulation M.R. 121/93. In either scenario, the provisions of *The Homesteads Act* apply to these documents. This includes any applicable requirement for an acknowledgment to be made apart from the owner **and the witness must include in the videoconferencing certificate confirmation that these witnessing requirements were met.**