



SOUTH
AUSTRALIAN
EMPLOYMENT
TRIBUNAL

Practice Direction – The witnessing of affidavits during the COVID-19 pandemic

Since the beginning of the changed circumstances due to the COVID-19 pandemic, the Registry has accepted unsworn affidavits. In order to clarify what is expected and to ensure that there is minimal confusion and consistency of approach, the South Australian Employment Tribunal will adopt the Practice Note of the Supreme Court and District Court of 16 April 2020, as below:

The question as to how to witness affidavits during the current situation has been raised, given that deponents may be in social isolation, quarantine or vulnerable persons.

It is not appropriate for an oath to be taken via video link. Affidavits must continue to be witnessed in person, with appropriate safety precautions in place.

However, if for health or logistical reasons this is not possible, a solicitor should exhibit the deponent's unsworn affidavit to his/her own affidavit, with an undertaking to file the sworn original once it is possible to have it sworn.

The solicitor's affidavit should attest to:

1. the reasons why it was not possible for the exhibited affidavit to be sworn by the deponent;
2. the unsworn document has been prepared on the instructions of the deponent;
3. the deponent has read the document and agrees with its content; and,
4. upon it becoming possible to do so, the deponent will swear/affirm the document.

If the solicitor's affidavit is filed unsworn, the solicitor is taken to have given an undertaking that the contents are true and correct.

Dated this 28th day of April 2020.

The Honourable Justice Steven Dolphin

A handwritten signature in dark ink, appearing to read 'S. Dolphin', with a long horizontal flourish extending to the right.

President

South Australian Employment Tribunal