



Law Society
of Ontario

Barreau
de l'Ontario

TAB 4

The Annotated Will 2021

LSO Remote Commissioning Checklist

January 26, 2021





Remote Commissioning Checklist

Deponent's Name	
Remote Commissioning Date and Time	

I. Understand the Legislative Requirements for Remote Commissioning and Related Guidance Documents

If required, review

The conditions for remote commissioning set out in [O. Reg 431/20](#), *Administering Oath or Declaration Remotely* (the "Regulation") made under the *Commissioners for Taking Affidavits Act* (the "Act")

The Ministry of the Attorney General's [Guide for Newly Appointed Commissioners for Taking Affidavits](#)

The Law Society's [Remote Commissioning](#) and [Best Practices for Remote Commissioning resources](#)

II. Follow the Best Practices for Remote Commissioning

A. Determine Whether Remotely Commissioned Documents will be Accepted

Determine if the party receiving the commissioned document is willing to accept a remotely commissioned document

Steps taken to determine whether remotely commissioned documents are accepted:

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Confirm whether there are applicable practice directions or guidelines in place for the matter

Name of applicable practice direction or guideline:

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Print or save to file

Consider whether to follow the Regulation and any practice direction or guidelines alone or to integrate the best practices set out below

B. Prepare for the Remote Meeting

Select a remote meeting platform that offers security features and other process safeguards that facilitate adherence to the Regulation and the best practices identified below

Remote meeting platform used:

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Determine purpose of meeting to ensure that you have considered, in advance, any issues relating to confidentiality or privilege

Consider accommodation and special circumstances and take appropriate steps
Accommodation and/or special circumstances and steps taken, if applicable:

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Determine if the remote meeting will be recorded

Where possible, inform all persons attending the meeting of the intention to record, in advance and in writing

How and when persons were informed:

A large empty rectangular box with a black border, intended for the user to provide details on how and when persons were informed.

Request and obtain from the deponent high-resolution digital images of both sides of valid government issued photo identification

Amend the jurat(s) and marks on the exhibits to reflect that commissioning was administered in accordance with the Regulation, and the location of the commissioner and the deponent at the time that commissioning was administered.

Ensure both you and the deponent have copies of affidavit and exhibits

Guide the deponent's preparation for the meeting, including, if applicable, review of the affidavit and exhibits and preparation of a list of questions and any necessary revisions

Configure the security settings of your remote meeting platform

Schedule the meeting and provide the deponent with secure login instructions

C. Facilitate the Remote Meeting

Test audio and video feeds to ensure that you and the deponent can hear, see, and communicate in real time

If recording the meeting, inform or remind the parties

Ask the deponent to use the camera to scan the entire room to determine if there are any third parties present and to not mute their audio or turn off their video feed during the meeting

If third parties are present, ask all parties present to identify themselves and record

Full names of all third parties:

Steps taken to protect privilege or confidentiality, if applicable:

Risk assessment of undue influence or duress and steps taken to mitigate risk:

D. Confirm the Identity of the Deponent

Compare the front and back of the high-resolution copy of photo identification provided against the video image the deponent has produced in the meeting

Satisfy yourself that it is valid, current, and the same as the copy provided electronically
If the identification is not current, consider if it is still valid

If you are not recording the remote meeting, consider taking a screenshot or photo of the deponent with the front and back of their government-issued photo identification document and informing the deponent of same before doing so.

E. Commission the Affidavit

Ensure you and the deponent have paper copies of the affidavit, including exhibits

If applicable, confirm the accuracy of the content of the affidavit and deponent understanding

Determine if there are any questions about the affidavit and exhibits

Ask if any corrections need to be made

Confirm the completeness of the affidavit

Review each page of affidavit and exhibits, comparing deponent's copy against yours

Deponent initials each page

Administer the oath, affirmation, or declaration

Hear the verbal confirmation of the deponent

See the deponent sign the affidavit

Ask deponent to send a high resolution electronic copy of the signed affidavit with exhibits ("signed affidavit")

Confirm the signed affidavit is the same as the one reviewed with the deponent during the meeting

Amend the jurat(s) and marks on exhibits, if required, and complete and sign the jurat(s) and mark the exhibits on the signed affidavit

Attach the commissioned affidavit to your copy of the documents reviewed during the meeting

Ensure you and the deponent have the required copies of the commissioned affidavit

Determine who will retain the originals

Make document delivery arrangements for originals, if required

Share or send the deponent an electronic copy of the commissioned affidavit

F. Document the File and Retain Records

If the meeting was recorded, store the recording in a secure and accessible location

If the meeting was not recorded, create notes of the minutes of the meeting using the Additional Notes section of this Checklist or a separate document

Retain this completed Checklist for your records as well as any other record of the remote commissioning (e.g., copy of the document(s) commissioned, audio-visual recording of the remote meeting, notes or minutes taken during the remote meeting, etc.)

Additional Notes: