



OLIVER HO

SOCIAL DISTANCING AND EXECUTING DOCUMENTS WITH ELECTRONIC SIGNATURES

As governments urge social distancing, the manner in which agreements, forms and other documents are executed is becoming a question that many are asking. Previously, a general preference for originally executed documents existed, however that option is slowly becoming more difficult to achieve as people are increasingly working remotely and avoiding face-to-face contact as much as possible. This is affecting the way organizations and individuals are doing business, and the natural question about enforceability of electronic signatures has arisen.

In short, s. 16 of the [Electronic Transactions Act](#) sets out that any legal requirement that a record be signed may be satisfied by the application of an electronic signature. The definition of electronic signature means any electronic information created/adopted by a person to sign a record. In other words, it may well be that a scanned signature, signature created using specialty software such as DocuSign™ or Adobe Sign™, or an “I agree” button will suffice to meet a legal obligation to sign a document (so long as the requirements set out in s. 1(1)(c) of the *Act* are met).

It should be noted however, that there are some categories of documents for which electronic signatures are expressly not permitted. Those include, among others, wills, enduring powers of attorney, personal directives, records that create or transfer interests in land, and guarantees under the [Guarantees Acknowledgement Act](#).

The standard rules and protocols that govern the way we conduct business are being forced to adapt to the circumstances surrounding these uncertain times. One of the predominant questions arising out of this pandemic will be the enforceability of any agreements that are executed via electronic means. The lawyers at JSS Barristers are happy to answer your questions or provide any legal assistance.

Oliver Ho is a partner with JSS Barristers where he also leads the firm’s Chinese language practice group. Click [here](#) for Oliver’s bio.