

Dispute Resolution

Singapore Moves towards Recognising Electronic Statutory Declarations, Oaths and Affirmations, and Notarisations

Introduction

As electronic transactions quickly become the new norm, Singapore's legal system has continued to keep pace with developments in technology and practice. A prime demonstration of this is the execution of statutory declarations ("**SDs**"), oaths and affirmations ("**OAs**"), and notarisation, which have traditionally had to be performed in person and via wet ink signatures. However, this is set to change with the introduction of legislative amendments to facilitate electronic SDs, OAs and notarisation.

On 3 July 2023, two Bills (the Oaths, Declarations and Notarisations (Remote Methods) Bill and the Constitution of the Republic of Singapore (Amendment) Bill) were introduced in Parliament to provide individuals and businesses in Singapore the option to make SDs, OAs, and to notarise documents through remote means. The amendments seek to provide greater convenience and efficiency, while imposing safeguards to protect the integrity of the process.

The legislative framework has two key features:

- **Electronic meetings:** Clients who need to make a SD or OA, or notarise documents, may appear before an authorised service provider using video conferencing platforms, or other electronic means that meet certain prescribed requirements.
- **Electronic signing:** The relevant signature requirements can be satisfied electronically. The framework will require specified modes of electronic signatures in certain circumstances.

This Update highlights the key features of the amendments and the proposed framework.

Background

SDs and OAs are required by law in Singapore for a number of legal and business purposes. They are essentially statements of truth of the content therein and have legal repercussions if found to be false. Examples include affidavits for legal proceedings and certification of certain company documents.

Currently, SDs and OAs generally have to be made in person before a commissioner for oaths or a notary public. However, the need for execution through remote means has been increasingly clear,



Dispute Resolution

particularly during the COVID-19 period. Further, advancements in technology have made it possible for electronic measures that maintain a high degree of security against fraud.

The proposed framework for SDs and OAs to be made and documents to be notarised through electronic means is thus timely and practical.

Key Features

Oaths

The framework provides for OAs to be taken through electronic means of communication. The requirements include:

- The OAs must be taken and administered in accordance with prescribed requirements.
- The electronic means of communication must be in the prescribed list (which currently consists of live video link and live television link).
- The electronic means of communication must allow for communication with the person taking the OAs (or an interpreter) throughout the process, confirmation of their identity, and verification by inspection.

Statutory declarations

The framework provides for SDs to be made in Singapore through electronic means of communication. The requirements are similar to those for the taking of OAs through electronic means, as set out above. It should be noted though that different requirements and means of electronic communication may be prescribed for the taking of OAs and the making of SDs.

Further, SDs are taken, made or received in Singapore only if the declarant and the person taking the declaration are in Singapore.

When SDs are made in the form of an electronic record, they may be signed only via prescribed electronic signatures. Different types of electronic signatures may be prescribed for different categories of persons. This will be set out in subsidiary legislation.

Notary public

The framework provides for a notary public to exercise their power or function through electronic means of communication. The requirements are similar to those for the taking of OAs through electronic means, as set out above.

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The exercise of a notary public's power of function through electronic means of communication, provided that it complies with prescribed requirements, includes the following:

- Making or signing and sealing a notarial act;
- Making a declaration under oath or affirmation;
- Certification of a true copy; and
- Issuing a certificate of the nature or authenticity of a document.

Concluding Words

The amendments for SDs and OAs to be made and documents to be notarised through electronic means are a welcome development in the ongoing modernisation of Singapore's legal system. It is in line with the Singapore Government's efforts to facilitate electronic transactions.

At the same time, the proposed framework allows for the security of the process to be safeguarded through the imposition of prescribed requirements. We will continue to keep you updated on this development and the issuance of subsidiary legislation in this regard.

For further queries, please feel free to contact our team below.

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