



SIGNATURES including electronic

Execution of NOPTA forms by companies

The purpose of this fact sheet is to provide guidance on the execution of NOPTA forms and prescribed instruments of transfer by companies, including electronic signatures.

Note: The signature block on NOPTA forms and prescribed instruments of transfer should not be amended unless allowed for on the form. Please contact NOPTA if this causes any issues.

What is needed?

To avoid any doubt that the person signing NOPTA forms is authorised to bind a titleholder that is a company, NOPTA will require its forms and prescribed instruments of transfer to be executed:

For a registered Australian company:

- in accordance with [section 127](#) of the Corporations Act 2001 (the Corporations Act); or
- by a person holding a legal power of attorney executed by the company in accordance with section 127 of the Corporations Act.

For a foreign company:

- by the foreign company, in accordance with the law of the country of incorporation of the foreign company; or
- by a person holding a legal power of attorney for the foreign company, executed by the company in accordance with the law of the country of incorporation of the foreign company.

Foreign companies—additional requirements

For a foreign registered company (whether registered as a foreign company with ASIC, or not) executed NOPTA forms should also be accompanied by a formal legal opinion from:

- an Australian law firm;
- a reputable law firm based in the company's place of incorporation; or

- an in-house lawyer in the foreign registered corporation – stating that the company is a foreign registered company and that it has executed the forms in a way that is binding on the foreign company under the law of the place of incorporation of the foreign company.

If a signatory for a foreign company uses an **electronic signature**, the formal legal opinion accompanying that execution should also include a statement that the form of electronic execution used by the signatory (and if applicable, any required witness to that signature) is permitted under and is in accordance with the law of the place of incorporation of the foreign entity.

Power of attorney

General Requirements

If NOPTA forms or prescribed instruments of transfer are signed by a person holding a legal power of attorney for either a registered Australian company or a foreign company, the power of attorney document is to be prepared in accordance with the law of the jurisdiction in which the NOPTA forms will be executed, and:

- the attorney should clearly state that they are signing as attorney for **[full name of company]**
- the name of the attorney is to be written in full;
- the attorney must declare that:
 - they hold the power to execute the form on behalf of the company, and;
 - at the time of signing this has not been revoked; and
- the signature of the attorney on the form must be witnessed, with the signature and full name and address of the witness provided on the form.

Copy of power of attorney

Unless already provided, a copy of the power of attorney document must also be provided to NOPTA for our records. This will not be published.



Foreign company power of attorney—additional requirements

If the power of attorney is provided by a foreign company, then there are additional requirements, being that NOPTA be provided with:

- a notarial certificate of due execution by the foreign company of the power of attorney; and
- a legal opinion from an Australian law firm or Australian in-house lawyer that the form and content of the instrument meet the formal requirements of a power of attorney in the Australian jurisdiction in which it will be used.

Why is this needed?

Using the methods outlined above allows NOPTA to be confident that the person(s) signing the form have the ability to bind the company, without the need for further enquiries/investigation.

If documents have not been signed in accordance with the above requirements, NOPTA will consider the application incomplete and request that the applicant re-sign these documents.

This may have implications for statutory time limits on the lodgement of certain forms.

Eligible voluntary actions—execution by a single titleholder for joint titleholders

If the application is to be made using an eligible voluntary action nomination (see [NOPTA Forms Guidance](#)) the nominee company must:

- clearly state this on the application form;
- execute the form in accordance with this factsheet.

Using Counterparts

Documents executed by company officers may be executed in counterpart. If a counterpart is signed, the signed counterpart must include the **entire** contents of the document.

If documents are executed in counterpart, one director/attorney may physically sign a paper version of the NOPTA form while the second director/attorney could sign the same document electronically.

Electronic signatures

For a registered Australian company:

Australian registered company officeholders may execute documents electronically if the method used:

- identifies the person and indicates their intention in respect of the information recorded in the document; and
- is as reliable as appropriate for the purpose for which the information was recorded or proven in fact to have indicated the person's identity and intention to sign.

The electronic signatures that will meet the requirements above for NOPTA forms executed by either:

- (a) Australian company officeholders under s 127(1) of the *Corporations Act*; or
- (b) attorneys signing NOPTA forms for Australian registered companies; are:

Electronic signing platforms with verification of identity and secure encryption

NOPTA will accept electronic signatures created with the use of electronic signature platforms that have system processes to verify the identity of the signee by multiple authentication methods, secure the signature by encryption, and prevent alterations to the document after signing, such as DocuSign and Adobe Sign.

The entire document which is to be electronically signed (not just the signature pages) needs to be uploaded onto the signing platform, as clear and unambiguous evidence of the signatory's intention to be bound by the entire contents of the document.

If you would like to use an alternative signing platform, please contact NOPTA before execution, with details and evidence of the authentication and encryption methods used by the signing platform, so that we may consider whether it meets NOPTA's identification and reliability requirements.



Electronic signatures using a Stylus Tool

NOPTA will also accept electronic signatures made using a stylus tool to sign a PDF document which is then emailed back to the company/NOPTA.

Examples of electronic signatures that **NOPTA will not accept** include:

- signing platform products that do not have both sufficient system processes in place to verify the identity of the signee by multiple authentication methods; and include secure encryption of the entire document after signing.
- documents signed with the fill and sign feature in Adobe; and
- copy and pastes of signatures.

These are not considered to be sufficiently reliable for electronic signatures on NOPTA forms and will be returned.

Company officeholders and attorneys also continue to have the option of providing handwritten or 'wet ink' signatures on NOPTA forms. There is no requirement for multiple signatories to use the same method to sign the document.

Witnessing electronic signatures

For attorneys, electronic signatures using NOPTA accepted signature platforms will not require the attorney's signature to be witnessed, as NOPTA will rely on the evidentiary weight of the electronic signature platform processes to verify the identity of the signee. Electronic signatures using a stylus tool and 'Wet ink' signatures by attorneys on NOPTA forms will continue to need to be witnessed.

More information

If you have any specific questions, please contact NOPTA via titles@nopta.gov.au.

Please note: this document is intended as a guide only and should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases.

Version history

Version	Date	Comment
4.0	31/03/2022	Include electronic signatures
3.0	03/12/2021	Update format and links
2.0	30/07/2019	Update to layout, format and links.