**UPDATED** - TEMPORARY MEASURES IN RESPONSE TO COVID-19 – Electronic Signatures – expires 21 March 2021

This temporary measures note is to be read in conjunction with the NOPTA Fact Sheet on *Signatures – Execution of NOPTA forms by companies*: [**https://www.nopta.gov.au/factsheets/signatures-execution-of-nopta-forms-by-companies.html**](https://www.nopta.gov.au/factsheets/signatures-execution-of-nopta-forms-by-companies.html)(the **Factsheet**).

**Australian Registered Companies**

In May 2020 the Treasurer of Australia issued the *Corporations (Coronavirus Economic Response) Determination (No 1) 2020*, to facilitate the conduct of business in the circumstances of COVID-19. This was recently extended by the [*Corporations (Coronavirus Economic Response) Determination (No 3) 2020*](https://www.legislation.gov.au/Details/F2020L01194)(collectively, **the Determination***).* The Determination permits Australian registered company executions under 127 of the *Corporations Act 2001* by to be signed on separate counterparts, in either physical or electronic form.

In response to the Determination, NOPTA will be accepting electronic signatures with secure encryptions on applications and notices to NOPTA, executed by officeholders under subsection 127(1) of the *Corporations Act*, **between 6 May 2020 and 21 March 2021.**

In the circumstances of company officeholders signing NOPTA forms and notices under subsection 127(1) of the *Corporations Act*, the Determination requires that the method used for electronic signing

* identifies the person;
* indicates their intention to be bound; and
* is as reliable as appropriate for the circumstances.

NOPTA has decided that the electronic signatures with secure encryptions that will meet the requirements above for NOPTA forms are those 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 for example, DocuSign and Adobe Sign. If you would like to use an alternative signing platform, please contact NOPTA before execution, with details of the authentication and encryption methods used by the signing platform, so that we may consider whether it meets the identification and reliability requirements of the Determination.

The entire document which is to be electronically signed by each company officeholder (**not just the signature pages**) needs to be uploaded onto the signing platform and circulated to other parties by inserting their email addresses into the signing platform.

A combination of wet and electronic digital signatures may be used by multiple officeholders. However, to retain encryption of the document after electronic signing, **the wet signatures must occur first**.

Examples of electronic signatures that NOPTA cannot accept include documents signed with the fill and sign feature in Adobe, copy and pastes of signatures and electronic pens. These are not considered to be sufficiently reliable for electronic signatures on NOPTA forms and will be returned .

**Foreign Companies and State Entities**

The requirements for signing by foreign companies and State entities are not affected by the Determination, refer to the Factsheet for further details.

**Powers of Attorney**

To facilitate the conduct of business in the circumstances of COVID-19, during the period 6 May 2020 and 21 March 2021 attorney’s signing NOPTA forms for Australian registered companies under a power of attorney may use electronic signatures created by the use of electronic signature platforms, such as for example DocuSign and Adobe Sign.

These electronic signatures will be accepted by NOPTA without the need for 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 (see detail under ‘Australian Registered Companies’ above).

‘Wet ink’ signatures by attorney’s on NOPTA forms will continue to need to be witnessed.