

EFFECTING LEGAL ARRANGEMENTS AND
EXECUTING DOCUMENTS BY ELECTRONIC MEANS
– ISLE OF MAN

| USUAL EXECUTION FORMALITIES | | ELECTRONIC MEANS |
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| COURT DOCUMENTS | | |
| General | | <p>Whilst many court documents can be filed electronically, this facility does not extend to exhibits or core / hearing bundles. Any documents filed should be filed in one format or the other, not both.</p> <p>The requirement to file core / hearing bundles in hard copy currently remains.</p> <p>Parties are to be encouraged to keep matters moving so that cases do not drift. Delay is not to be encouraged and the Courts are willing to consider requests for directions hearings by telephone or to consider matters on the papers if that is appropriate and possible. Even in cases where directions have been adjourned of the Court's own volition parties are encouraged to seek to agree directions or, if this is not possible, to request that a matter is re-listed for directions hearing by videolink or by telephone. All matters will be considered on a case by case basis. Inevitably the question of whether a fair resolution is possible by way of a remote hearing will be case-specific but parties are to be encouraged to ensure that the administration of justice does not come to a halt simply because parties may be unable to physically attend court.</p> |
| WITNESS STATEMENTS | | |
| For Court Proceedings | Usually sworn in the presence of a commissioner for oaths or notary public. | As it currently stands, there is no facility for the swearing of oaths to be undertaken electronically. However, during the coronavirus pandemic the Isle of Man courts will accept electronic submissions with an undertaking for sworn documents to follow. |
| For Other Purposes | Usually sworn in the presence of a commissioner for oaths or notary public. | As it currently stands, there is no facility for the swearing of oaths or for any document that must be executed in the presence of a commissioner for oaths or notary public to be undertaken electronically. |
| AGREEMENTS AND CONTRACTS | | |
| Individual | Witnessing of signatures is not typically required for standard agreements and contracts but may be used as an evidentiary backstop, so that neither party can claim that they did not sign. | Electronic signatures are permitted provided that the transaction is not an Excluded Transaction for the purposes of the ETA. See 1 above for formalities for electronic signatures. |
| 2006 Act Company | <p>Section 86 of the Companies Act 2006 (2006 Act):</p> <p>(1) A company may, by affixing its common seal thereto, make or execute any written contract, deed, instrument or other document.</p> <p>(2) A company need not have a common seal, however, and the following ...</p> | Electronic signatures are permitted provided that the transaction is not an Excluded Transaction for the purposes of the ETA. See 1 above for formalities for electronic signatures. |

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| | <p>appl[ies] whether it does or not.</p> <p>(3) An oral contract may be made, and a written contract, deed, instrument or other document may be made or executed on behalf of a company by any person acting under its authority, express or implied.</p> <p>(4) A written contract, deed, instrument or other document made or executed by a company which makes it clear on its face that it is intended by the person or persons making it to be a deed has effect, upon delivery, as a deed; and it shall be presumed, unless a contrary intention is proved, to be delivered upon it being so executed.</p> <p>NB: execution formalities may be dictated by the articles of association.</p> | |
| 1931 Act Company | <p>Section 29 of the Companies Act 1931 (1931 Act): A contract may be made;</p> <p>(a) by a company, by writing under its common seal, or</p> <p>(b) on behalf of a company, by any person acting under its authority, express or implied and any formalities required by law in the case of a contract made by an individual also apply, unless a contrary intention appears, to a contract made by or on behalf of a company.</p> <p>Section 29A of the 1931 Act:</p> <p>(2) A document is executed by a company by the affixing of its common seal.</p> <p>(3) A company need not have a common seal, however, and the following ... appl[ies] whether it does or not.</p> <p>(4) A document signed by a director and the secretary of a company, or by two directors of a company, and expressed (in whatever form of words) to be executed by the company has the same effect as if executed under the common seal of the company.</p> <p>NB: execution formalities may be dictated by the articles of association.</p> | Electronic signatures are permitted provided that the transaction is not an Excluded Transaction for the purposes of the ETA. See 1 above for formalities for electronic signatures. |
| DEEDS | | |
| Individual | Must be witnessed. | Check whether an Exempt Transaction in which case not permitted. An electronic signature can be witnessed provided the witness is physically present and observes the signatory affixing his or her electronic signature. |
| 2006 Act Company | Must be executed by an authorised signatory. | Check whether an Exempt Transaction in which case not permitted. Check constitutional documents. |
| 1931 Act Company | Must be executed by affixing its common seal or by two directors or one director and the company secretary, signatures must be on the same document. | Check whether an Exempt Transaction in which case not permitted. Check constitutional documents. |
| FILINGS AND RETURNS | | |
| Companies Registry | A hard copy form with wet ink signature of the filer is required and, when registering security against a company incorporated under the 1931 Act, must be accompanied by hard copy wet ink original charge document or certified copy. | <p>Pursuant to the Electronic Transactions (General) (Amendment) (No.2) Regulations 2020 and the Companies Registry Electronic Transmission of Information Guidance issued in November 2020, documents can be presented for registration electronically subject to the following process:</p> <ul style="list-style-type: none"> each individual document is sent in PDF format (where there are multiple documents |

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| | | <p>required for a registration for example a 1931 Act incorporation, the Memorandum of Association must be a separate document, the Articles of Association must be a separate document, and the Form 1 must be a separate document)</p> <ul style="list-style-type: none"> • the documents must be emailed to companyfilings@gov.im • no more than 10 documents can be attached to a single email • password protected documents cannot be accepted • documents must not exceed 4MB • the email sent to submit the document must also be sent to all persons who have signed the document • where a statutory fee is required (incorporation, registration, annual returns or late fees), payment can be made either by; (a) Bank transfer prior to filing, with evidence of the payment being made included on the email. The document will be determined as being received upon the date of receipt of the email, subject to the successful provision of the payment. or; (b) by debit or credit card. If using this method, a contact telephone number should be provided and a team member from the Companies Registry will call to take payment over the telephone. The document will be determined as being received upon the date of receipt of the email, subject to the successful provision of the payment. <p>Where no registration fee is required, documents will be treated as being received on the date of receipt of the email.</p> <p>Where a document cannot be accepted for registration under the CA 1931 or the CA 2006, notification of the same will be sent by email to the original sender of the email.</p> <p>Note that a mortgage, debenture or charge on the undertaking, property or revenues of a company cannot be executed by electronic signature.</p> |
| Financial Services Authority | Electronic submissions are permitted. | No special procedures required. |
| LAND REGISTRY DOCUMENTS | | |
| Land Registry | Filings can be made by email for priority with wet ink signed documents to follow in the post. | Note that a mortgage over land cannot be executed by electronic signature. |
| Deeds Registry | Original wet ink documents required. | Note that a mortgage over land cannot be executed by electronic signature. |
| NOTARIAL ACTS | | |
| All | As it currently stands, there is no facility for the swearing of oaths or for any document that must be executed in the presence of a notary public to be undertaken electronically. | |
| POWERS OF ATTORNEY | | |
| All | Must be wet ink. | Excluded Transaction under the ETA. |

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| PROXY FORMS, APPOINTMENTS AND AUTHORISATIONS | | |
| All | Check constitutional documents for any specific requirements. The form of proxy will be as set out in the articles of association of a company whereas there are statutory requirements for appointment of directors/shareholders (and whether these can be done electronically is still to be determined). | We would advise that any minutes authorise the directors/authorised signatory to execute electronically where documents do not fall within the scope of Excluded Transactions. |
| SHARE TRANSFER FORMS | | |
| All | Check constitutional documents, but usually permitted in any form approved by the directors. | Check constitutional documents, but usually permitted in any form approved by the directors, which could include electronically. |
| VIRTUAL CLOSINGS, GENERALLY | | |
| All | The signing of all documents must meet the requirements for execution unique to the documents, as set out above. | It is important to agree the procedures with all parties to the transaction beforehand and, if relevant, consult with local counsel in each party's jurisdiction. |
| WILLS AND TESTAMENTARY INSTRUMENTS | | |
| All | Must be wet ink and witnessed by two witnesses who do not benefit under the will or testamentary instrument. | Excluded Transaction under the ETA. |