



Frequently Asked Questions

Use of Electronic Signatures in Queensland - FAQs

CoreLogic is constantly trying to make the preparation, sale and settlement of Australian property more transparent, efficient and effective for property professionals and consumers. It has partnered with the world's most trusted electronic signature platform, DocuSign, to streamline the processing and settlement of Australian properties. This pioneering process requires that all parties feel confident in both the efficiencies and legalities surrounding the use of electronic signatures. CoreLogic has asked King & Wood Mallesons to research commonwealth and state laws and regulations to produce a series of white papers for CoreLogic to educate all parties involved.

If you would like to learn more information about the contents of this document please call us on 1300 734 318 or visit us at corelogic.com.au/docuSign

Use of Electronic Signatures in Queensland - FAQs

What are electronic signatures?

An electronic signature is a signature associated with an electronic document or message, and that manifests intent. For example, a signature entered on an iPad is an electronic signature. In some cases, clicking "I agree" on a website could be regarded as an electronic signature.

Are electronic signatures legally valid?

Yes, electronic signatures can be legally valid, in the same way that a signature made by pen on paper is valid. Generally, the test is whether the signature manifests intent.

There is no legal requirement that a signature reflect a person's name or that a signature be written in pen on paper.

What is DocuSign?

DocuSign is an electronic signature and record retention system. It enables a document or notice to be sent electronically for execution and it can retain a copy of the signed document or notice.

DocuSign is a system that enables a document to be signed. In general terms, it can be used when a legally binding signature is required on a document, notice, contract or form or when it is standard industry practice to sign a document.

What if Queensland law specifically requires that a document be signed?

Subject to some narrow exceptions, if Queensland law specifically requires that a document be signed, DocuSign can be used as the method to sign the document.

Queensland Parliament has passed a specific law to facilitate the use of electronic signatures, namely, the *Electronic Transactions (Queensland) Act 2001*. Provided that the method of signing used identifies the person and indicates the person's intention, and is reliable, then the method of signing will meet the legal requirements for a signature under Queensland law. DocuSign is a reliable method of providing a person's signature and can be configured to identify a person and indicate their intention.

For example, Queensland law requires that the appointment of a real estate agent must be in writing and signed and dated by both the client and the real estate agent. DocuSign can be configured to comply with these specific legal requirements.

Does Queensland law require that a contract or legal notice be signed?

If many instances, Queensland law does not require a contract to be in writing or signed, or that a legal notice be signed. It may be traditional to sign certain documents, but the law may not require it.

If the law does not require that a document be signed, DocuSign can still be used and configured as a method for signifying agreement or for providing information.

Does the person using DocuSign have to consent in writing prior to using it?

No. There is no legal requirement that prior written consent be obtained before using DocuSign. The *Electronic Transactions (Queensland) Act* states that consent to use the technology does not have to be in writing or signed, and can be inferred. If a person signs a document using DocuSign, then there is implied consent.

Can DocuSign be used to sign a government form?

Yes. DocuSign can be used to sign a form provided by a government authority (for example, the PAMDA Form 22a to appoint a real estate agent). However, if the form needs to be submitted to a government authority (such as a Form 2 Bond lodgement required to be provided to the Residential Tenancies Authority), DocuSign will only be able to be used if the government authority allows use of the system.

Are there instances when DocuSign should not be used?

There are circumstances when it is not recommended that DocuSign is used, such as where legislation (such as the *Electronic Transactions (Queensland) Act*) excludes its use or where the law is still developing in a given area (for example, electronic conveyancing). The table below outlines the position with respect to typical transactions associated with the real estate industry.

What transactions are excluded from the use of DocuSign by the Electronic Transactions (Queensland) Act?

The *Electronic Transactions (Queensland) Act* excludes the use DocuSign in relation to certain transactions, for example, where a law has more specific information technology requirements (i.e. that a particular kind of data storage device be used) or in relation to certain documents. For example, DocuSign should not be used to sign wills, documents that need to be witnessed or Court documents.

If there is a dispute about a document signed using DocuSign, will proof of the signature on the document hold up in Court?

Under the evidence rules applicable to Queensland, electronic records can be reproduced allowing the record of an electronic signature to be admitted into evidence (if necessary). From a practical perspective, DocuSign technology can appropriately track electronic communication and maintain electronic records in an appropriately secure and permanent manner. These processes can be demonstrated to a Court and as such, it can be shown that the appropriate level and amount of information surrounding the signing process was retained, using a system that is in itself reliable.

Example documents

The below table lists typical documents used by real estate agents and notes if DocuSign is recommended for use. This list sets out common examples, and DocuSign may be able to be used in other circumstances as well.

Type of transaction	Can DocuSign be used?
Appointment of real estate agent	✓
Approval of marketing campaign	✓
Tenancy application	✓
Entry condition report	✓
Bond lodgement or transfer form	x
Residential or commercial lease	✓
Expression of interest	✓
Contract of sale	✓

*This FAQ document has been prepared on behalf of RP Data for its sole use. The legal validity of the use of DocuSign in electronic conveyancing has not been considered. This document is based on the assumption that DocuSign is configured appropriately to comply with the requirements outlined in this document. If DocuSign is configured by individual users, independent legal advice should be sought to determine the validity of the configuration.