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Now that many people are working remotely and engaging in social distancing, self-isolation, or self-quarantine, many may be wondering: “How can I continue to sign contracts and other documents important to my business without access to printing, scanning, fax, and in-person meetings?” Fortunately, in Saskatchewan, most contracts and other business documents can be signed electronically.

What is an Electronic Signature?

Electronic signatures are defined in [The Electronic Information and Documents Act](#) (EIDA) as information in electronic form that you have created to sign a document, and that is attached to the document. An electronic signature can be your name or initials typed in a certain font, a signature you draw electronically, or an image of your ink signature. An electronic signature may also include numbers or other characters unique to you. For example, some electronic signatures include a “digital certificate” containing a series of characters that may be used to authenticate the signature and the document.

What Documents Can and Cannot Be Signed Electronically?

Under the EIDA, all documents can be signed electronically unless the EIDA or another piece of legislation says otherwise. The following is a non-exhaustive list of documents that cannot be signed electronically:

- Wills
- Health care directives
- Trusts created by wills
- Powers of attorney relating to the financial affairs or personal care of an individual
- Land transfer documents
- Affidavits

However, it should be noted that on March 26, 2020, the Government of Saskatchewan used its emergency powers to allow some of the above-listed documents to be signed electronically in certain circumstances. As the exceptions the Government has made are complex, likely to change quickly, and may rely on having a lawyer witness the signature, please contact a lawyer for assistance if you wish to sign any of the above-listed documents electronically.

A comprehensive review of the documents on which electronic signatures cannot be used is outside of the scope of this article. Please consult the additional McKercher LLP resource – [Corporate E-Signature Usage during the COVID-19 Pandemic](#) – if you have questions about whether electronic signatures are valid for the purpose of observing formalities within business corporations, non-profits, partnerships, trusts, and cooperatives (for example, whether the directors of a corporation can approve its financial statements by signing them electronically).

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CAROLINE J. SMITH
PARTNER, SASKATOON
DIRECT: (306) 664-1350
c.smith@mckercher.ca



ZINA L. B. SCOTT
ASSOCIATE, REGINA
DIRECT: (306) 565-6525
z.scott@mckercher.ca

SASKATOON
374 Third Avenue South
Saskatoon, SK S7K 1M5
(306) 653-2000 F (306) 653-2669

REGINA
800 - 1801 Hamilton Street
Regina, SK S4P 4B4
(306) 565-6500 F (306) 565-6565

mckercher.ca



How can I Ensure That my Electronically-Signed Document is Considered Validly Signed?

To ensure that an electronically-signed document will be considered validly signed under the EIDA, once it has been signed you must:

- Save the electronic document in the same format without altering it;
- Ensure that the people who signed the document are able to access it and refer to it in the future; and
- Retain information about who created the document, whom it was sent to, and when it was sent.

For example, if you are a contractor being hired to renovate a building, and the owner emails you a PDF version of a contract that they have already signed, after you electronically sign the contract you can ensure that the contract will be considered validly signed under the EIDA by saving the fully-executed contract as a PDF on your own computer and emailing a copy of the fully-executed contract to the owner. The email from the owner to you attaching the partially-executed contract and the email from you to the owner attaching the fully-executed contract and their attachments should both be saved in a way that allows them to be accessed in the future. This is just one example of how to meet these requirements; there are many software applications that will allow you to meet these requirements in different ways.

Additionally, though this is not expressly required by the EIDA, it is also a good idea to get the consent of every party involved in signing a document before signing it electronically.

Ways to Enter into Contracts Without Signatures

The EIDA also provides that unless the parties agree otherwise, they can enter into contracts electronically by clicking a button or an icon to express acceptance.

Conclusion

You can avoid some of the disruptions caused by COVID-19 by using an electronic signature to sign contracts and many other documents. If you are not sure whether your electronically-signed document is valid, or whether a particular type of document can be electronically signed, do not hesitate to reach out to the lawyers at McKercher LLP.

About the Authors:

Caroline is a partner in the Saskatoon office and practices primarily in the area of commercial litigation, including contract, construction, real estate, and shareholder disputes.

Zina is an associate with the Regina office.

About McKercher LLP:

McKercher LLP is one of Saskatchewan's largest, most established law firms, with offices in Saskatoon and Regina. Our deep roots and client-first philosophy have helped our firm to rank in the top 5 in Saskatchewan by Canadian Lawyer magazine (2019/20). Integrity, experience, and capacity provide innovative solutions for our clients' diverse legal issues and complex business transactions.



SASKATOON

374 Third Avenue South
Saskatoon, SK S7K 1M5
(306) 653-2000 F (306) 653-2669

REGINA

800 - 1801 Hamilton Street
Regina, SK S4P 4B4
(306) 565-6500 F (306) 565-6565

mckercher.ca
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