

PUBLIC CONSULTATION ON REMOTE WITNESSING AND ELECTRONIC SIGNING OF STATUTORY DECLARATIONS

Ministry of Law (“MinLaw”)

Consultation Period: 5 July 2024 to 2 August 2024

1 INTRODUCTION

- 1.1 A statutory declaration is a written statement that a person signs, and solemnly declares to be true. Today, there are several requirements that must be satisfied, in order to make a valid statutory declaration. These include the need to appear in-person before an authorised service provider such as a Commissioner for Oaths (“CFO”). The process is also often paper-based, and usually involves the use of wet-ink signatures.
- 1.2 On 2 August 2023, Parliament passed the Oaths, Declarations and Notarisations (Remote Methods) Act 2023 (“ODN Act” or “Act”). The Act amends the Oaths and Declarations Act 2000 (“ODA”). Provisions in the ODA relating to statutory declarations, as amended by the ODN Act, can be found at [Annex A](#).
- 1.3 The Act provides individuals, businesses, and service providers (such as CFOs) with the option of making a statutory declaration remotely, and through electronic means. This means that once the Act comes into force, parties who are executing a statutory declaration may opt for remote witnessing in place of an in-person meeting; and electronic signing in place of wet-ink signing.
- 1.4 MinLaw is now conducting a public consultation on the specific requirements that should govern the remote witnessing and electronic signing process for statutory declarations. These requirements will be reflected in subsidiary legislation. SAL will also issue professional guidelines after consulting Commissioners for Oaths.
- 1.5 The public consultation period is from **5 July 2024 to 2 August 2024**.
- 1.6 We invite interested persons to provide feedback on the issues highlighted in this consultation paper.

2 KEY PRINCIPLE

- 2.1 In developing the specific requirements for each of the processes, we have adopted the following key principle:

The statutory requirements and guidelines must strike the appropriate balance between (a) providing convenience and efficiency for the public, and (b) having adequate safeguards to preserve the integrity of the process.

- 2.2 We invite views and comments on the key principle mentioned above.

3 REMOTE WITNESSING REQUIREMENTS

A. Framework under the ODN Act

- 3.1 Under the ODN Act, a person who needs to make a statutory declaration (called the “**declarant**”) may appear before an authorised service provider (such as a CFO) through live video link or live television link, as long as both the declarant and service provider are physically present in Singapore.

- 3.2 The Act does not specify the platform that declarants and service providers must use. Therefore, any video conferencing may be used,¹ as long as the platform allows the service provider to – ²

3.2.1 Communicate with the declarant, and any interpreter present, throughout the process;

3.2.2 Confirm the identity of the declarant and any interpreter present; and

3.2.3 Verify by inspection the document to be sworn and signed by the declarant.

- 3.3 The Act allows for the imposition of additional requirements that must be complied with, as part of the remote witnessing process.

¹ Examples of video conferencing platforms that may be used include Zoom, Microsoft Teams and Webex.

² Hence, for example, an electronic link will not meet the minimum requirements if it is of such poor quality that the authorised person is unable to properly make out the declarant’s face, or if it keeps disconnecting such that the parties are unable to communicate properly.

B. Proposed additional statutory requirements on remote witnessing

3.4 MinLaw proposes to enact the following additional requirements into law (via subsidiary legislation) –

3.4.1 The service provider (e.g. the CFO) must be satisfied that the document which he or she later signs is the same document that he or she had earlier witnessed the declarant signing.

3.4.2 The statutory declaration must include a statement to the effect that the service provider and the declarant were both physically present in Singapore at the time the statutory declaration is sworn and signed.

3.4.3 The statutory declaration must also include a statement which:

(a) States that the service provider and the declarant communicated through a live video link or live television link; and

(b) Identifies the electronic platform that was used.

C. Request for Feedback

3.5 We invite views and comments on the proposed requirements at Paragraph 3.4 which will be enacted into law (via subsidiary legislation).

3.6 You may wish to provide your views on the following in your feedback:

3.6.1 Do the statutory requirements stated above strike an appropriate balance between convenience and efficiency, and the integrity of the process?

3.6.2 Are there any requirements that should be removed from, or added to, the list above?

3.6.3 What are the potential challenges of making a statutory declaration through video-conferencing technology, and how might such challenges be overcome or mitigated?

4 ELECTRONIC SIGNING REQUIREMENTS

A. Framework under the ODN Act

4.1 Statutory declarations must be signed by both the declarant, and the authorised service provider. The framework established under the ODN Act provides that –

4.1.1 The declarant and service provider may sign the statutory declaration using an electronic signature that is prescribed in subsidiary legislation; and

4.1.2 Different types of electronic signatures may be prescribed in respect of declarants and service providers.

B. Electronic signature(s) to be prescribed in subsidiary legislation

4.2 Electronic signatures may take different forms. A brief explanation of the different types of electronic signatures is set out at [Annex B](#).

4.3 In deciding the type of electronic signature(s) that should be used to sign an electronic statutory declaration, MinLaw considered three possible approaches.

S/N	Description	Comments
1.	Accept any electronic signature	
	<ul style="list-style-type: none">The declarant and service provider may sign the statutory declaration using <u>any</u> electronic signature, including an ordinary electronic signature or a secure electronic signature.	<ul style="list-style-type: none">This approach has a high degree of flexibility, allowing both declarant and service provider to use an electronic signature that they are comfortable with, and that is convenient in the circumstances.The potential for improper or fraudulent conduct is however higher, when compared against the other two options below – e.g. a statutory declaration that a declarant has signed with an electronic image of his

S/N	Description	Comments
		handwritten signature, can be subsequently modified without significant difficulty.
2.	<p style="text-align: center;">Sign with Singpass only</p> <ul style="list-style-type: none"> • Both the declarant and service provider must sign the statutory declaration using Sign with Singpass. 	<ul style="list-style-type: none"> • Users can generate digital signatures with Sign with Singpass by using the Singpass app. • Digital signatures generated using Sign with Singpass are uniquely linked to the signer. The risk of identity fraud is lower compared to using non-secure electronic signatures: There is more assurance that a person who signs a document with his Singpass is who he says he is.³ • Documents that are digitally signed with Sign with Singpass are tamper-evident: If an electronic document is modified after it has been signed with Sign with Singpass, there will be a prompt that the signature is invalid (see Annex C for more details about Sign with Singpass). • Documents signed using Sign with Singpass will also have a timestamp, which can be useful in helping the service provider satisfy himself that the document that he or she signs is the

³ This is however, not fool-proof. If an individual shares his Singpass credentials with someone else, that other person could assume the individual's identity when signing documents. Members of the public are reminded to avoid sharing their Singpass credentials (e.g. Singpass ID, password) with others.

S/N	Description	Comments
		<p>same document signed by the declarant.</p> <ul style="list-style-type: none"> The “Sign with Singpass” approach will however accord less flexibility to users, who may prefer to use another electronic signing solution. Persons who do not have the Singpass app will also be unable to benefit from the electronic statutory declaration framework.
3.	<p style="text-align: center;">[Proposed] The “hybrid” approach</p> <ul style="list-style-type: none"> <u>Declarants</u> may sign the statutory declaration using any electronic signature, including an ordinary electronic signature or a secure electronic signature. They will however be encouraged to use Sign with Singpass. <u>The service provider administering the statutory declaration</u> must use Sign with Singpass. 	<ul style="list-style-type: none"> This accords flexibility to declarants, while mitigating the risk of fraud: There will be an indication that the statutory declaration is altered after it has been signed by the service provider. Nonetheless, some potential for fraud will remain under this approach. For instance: <ul style="list-style-type: none"> There will be a window of opportunity for a person to make unauthorised alterations to the statutory declaration.⁴ If the declarant applies an ordinary electronic signature, then there will be a higher risk of identity fraud going undetected. It may also be

⁴ For instance, if the declarant applies an ordinary electronic signature to the draft statutory declaration, it is possible for a malicious third party to make unauthorized alterations to the document *before* the CFO applies a signature generated using Sign with Singpass.

S/N	Description	Comments
		<p>more difficult for the service provider to confirm that the document he or she signs is the same document that was earlier signed by the declarant.</p> <ul style="list-style-type: none"> - Thus, where an ordinary electronic signature is used by the declarant, and this is remotely witnessed, the service provider may have to take additional steps to satisfy himself that the document is the same.

4.4 Having assessed the various possibilities, MinLaw considers the “hybrid approach” to strike the best balance between convenience for members of the public on the one hand, and ensuring process integrity and reduced risks of fraud on the other hand.

4.5 We invite views and comments on the proposed ‘hybrid signing approach’ mentioned at Paragraphs 4.3 and 4.4 above, which allows declarants to use any electronic signature that they wish, but requires the administering person to use Sign with Singpass.

5 SUBMISSION OF COMMENTS

- 5.1 We seek feedback on the remote witnessing and electronic signing issues mentioned above. Your feedback is important and will help us to develop an electronic framework that is practical, efficient, and secure.
- 5.2 Please submit your feedback by **2 August 2024** via FormSG using the link <https://go.gov.sg/e-stat-decs> or the following QR Code:



- 5.3 Your feedback is important to us. All comments received will be considered. However, we seek your understanding that we will not be able to individually acknowledge or address every comment. To maintain confidentiality, we will anonymize and aggregate the results of this engagement exercise in any public disclosure.
- 5.4 Thank you.

PART 3

STATUTORY DECLARATIONS

Persons may make statutory declarations

9. Any person may voluntarily make a statutory declaration in the manner provided in section 11 or 12 in relation to any matter.

Where law requires or authorises persons to make statutory declarations

10. Where by any written law (whether made before, on or after 1 January 2001) any person is authorised or required to make a statutory declaration, that statutory declaration must be made in the manner provided in section 11 or 12, as the case may be.

Manner of making statutory declarations in Singapore

11.—(1) A statutory declaration made in Singapore —

- (a) must be in the form set out in the First Schedule; and
- (b) must be made before a court, a person acting judicially, or a prescribed person.

(1A) The requirement in subsection (1)(b) for a person (called in this section and section 11A the declarant) to appear before a court, a person acting judicially, or a prescribed person for the purposes of making a statutory declaration in Singapore, is deemed satisfied if —

- (a) the declarant makes the statutory declaration, and the court, person acting judicially or prescribed person (as the case may be) takes or receives the statutory declaration, in Singapore in accordance with prescribed requirements through any electronic means of communication created by remote communication technology as set out in the Third Schedule; and
- (b) the electronic means of communication allows the court, person acting judicially or prescribed person (as the case may be) to —
 - (i) communicate with the declarant, and any interpreter present, throughout the process;
 - (ii) confirm the identity of the declarant and any interpreter present; and
 - (iii) verify by inspection the document to be sworn and signed by the declarant.

(1B) For the purposes of subsection (1A), a statutory declaration is made, taken or received in Singapore only if all the following persons are in Singapore when the statutory declaration is made, taken or received:

- (a) the declarant;
- (b) the court, person acting judicially or prescribed person, as the case may be.

(2) Subsection (1) does not affect any other written law conferring on any other person the power to take or receive a statutory declaration.

Electronic signature for statutory declarations

11A.—(1) Despite anything in section 8 of the Electronic Transactions Act 2010, where a rule of law requires a statutory declaration to be signed, or provides for certain consequences if a statutory declaration is not signed, that requirement is satisfied in relation to a statutory declaration in the form of an electronic record if a prescribed electronic signature is applied by —

- (a) the declarant; and
- (b) the court, person acting judicially or prescribed person, as the case may be.

(2) Different types of electronic signature may be prescribed in respect of the different categories of persons mentioned in subsection (1).

(3) Subsection (1) does not affect any other written law that provides for the type of electronic signature to be used for signing a statutory declaration in the form of an electronic record for the purposes of that written law.

(4) In this section, “electronic signature” means an electronic signature that satisfies section 8 of the Electronic Transactions Act 2010.

Validation of statutory declarations sworn through live video link or live television link

11B.—(1) This section applies to any statutory declaration purportedly made before the date of commencement of section 3 of the Oaths, Declarations and Notarisations (Remote Methods) Act 2023 (called in this section the appointed date) before a court, person acting judicially or prescribed person through a live video link or live television link, that was not specifically provided under any written law.

(2) A statutory declaration mentioned in subsection (1) is taken to have been validly made as if section 11(1A) were in force at the material time, if excluding the prescribed requirements mentioned in section 11(1A), the statutory declaration would have been validly made had it been made on the appointed date; and no legal proceedings may be

instituted on or after that date on account of the statutory declaration having been purportedly made through a live video link or live television link.

(3) However, a person is not to be punished for an act or omission committed before the appointed date that, but for subsection (2), would not have been an offence.

Statutory declarations made outside Singapore

12.—(1) A statutory declaration made in the United Kingdom or any part of the Commonwealth other than Singapore must be made before a notary public or justice of the peace of that country, or other person having authority under any law for the time being in force in that country to take or receive a declaration.

(2) A statutory declaration made in any place that is not part of the Commonwealth must be made before a consul or vice consul or before any person having authority under any law for the time being in force in that place to take or receive a declaration.

Statutory declaration sufficient to prove execution of will, etc.

13. An attesting witness to the execution of a will, deed or document, or any other competent person, may verify and prove the signing, sealing, publication or delivery of the will, deed or document by a statutory declaration made in the manner provided under section 11 or 12, as the case may be.

Making of false statutory declaration an offence

14.—(1) Any person who —

- (a) makes in a statutory declaration a statement which is false, and which the person knows or has reason to believe is false or does not believe to be true, touching any point material to the object for which the declaration is made or used; or
- (b) corruptly uses or attempts to use as true any statutory declaration made in or outside Singapore knowing the declaration to be false in any material point,

shall be guilty of an offence and —

- (c) if the person made the statutory declaration for use in any stage of a judicial proceeding or (as the case may be) used or attempted to use the statutory declaration in any stage of a judicial proceeding, shall be punished with imprisonment for a term which may extend to 7 years and shall also be liable to a fine; or
- (d) in any other case, shall be punished with imprisonment which may extend to 3 years and shall also be liable to a fine.

(2) Without limiting subsection (1)(c) —

- (a) a trial before a subordinate military court within the meaning of the Singapore Armed Forces Act 1972 is a judicial proceeding; and
- (b) each of the following is treated as a stage of a judicial proceeding:
 - (i) an investigation directed by law that is preliminary to a proceeding before a court, whether the investigation takes place before a court or otherwise;
 - (ii) an investigation directed by a court, and conducted under the authority of a court, whether the investigation takes place before a court or otherwise.

(3) Subsection (1)(a) applies to the making of a statutory declaration outside Singapore if the person knows or has reason to believe that the statutory declaration is intended to be used in Singapore; and the person may be dealt with as if the offence had been committed in Singapore.

(4) No prosecution may be instituted under this section without the written consent of the Public Prosecutor.

[15/2010]

FIRST SCHEDULE

Sections 11(1) and 18

STATUTORY DECLARATION

I⁽¹⁾, _____, do solemnly and sincerely
 declare⁽²⁾

And I make this solemn declaration by virtue of the provisions of the Oaths and Declarations Act 2000, and subject to the penalties provided by that Act for the making of false statements in statutory declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

(3)

Declared at _____ this _____ day of _____ .

Before me,

(4)

(5)

- (1) Here insert name, address and occupation of person making the declaration.
- (2) Here insert matter declared to. Where the matter is long, add the words “as follows:” and then set out the matter in numbered paragraphs.
- (3) Signature of person making the declaration.
- (4) Signature of person before whom the declaration is made.
- (5) Here insert title of person before whom the declaration is made.

SECOND SCHEDULE

...

THIRD SCHEDULE

Sections 7A, 11(1A) and 18

REMOTE COMMUNICATION MODALITIES

1. Live video link
2. Live television link.

ANNEX B – Brief explanation on the different types of electronic signatures

1 An electronic signature may take many forms.

Non-secured electronic signatures

2 Common examples of non-secure electronic signatures include:

2.1 Pasting an electronic image of a person's handwritten signature onto an electronic document;

2.2 Using a finger or stylus to write one name's on a touchscreen;

2.3 Typing a person's name at the end of an electronic document; and

2.4 Clicking an "I agree" checkbox.

3 Non-secure electronic signatures are easy to use, but can give rise to some potential for fraud. For instance, a third person may attempt to impersonate the declarant, and scrawl the image of that declarant's signature (or type that declarant's name) on a statutory declaration. Such impersonation fraud can be challenging for the administering person to detect, especially if he is seeing the impersonator or purported declarant for the first time.

"Secure electronic signatures"

4 Certain electronic signatures are regarded as "secure electronic signatures".⁵ A secure electronic signature is unique to the person using it, and capable of identifying the person.

5 Launched in 2020, digital signatures generated using Sign with Singpass, use certificates issued by Assurity Trusted Solutions Pte. Ltd. and are regarded as secure electronic signatures. The signature is identifiable and uniquely linked to the signatory. Signed documents are tamper-evident, and if there are any modifications made to the

⁵ Section 18 of the Electronic Transactions Act 2010

document post-signing, there will be a prompt that the signature is invalid. This prevents tampering of the document and reduces the risk of fraud.

- 6 Users can generate digital signatures with Sign with Singpass by using the Singpass app.
- 7 More information on Sign with Singpass is set out at Annex C.
- 8 Members of the public, and authorised service providers such as CFOs can sign documents using Sign with Singpass through various platforms. Examples of platforms which offer Sign with Singpass capabilities include the following:
 - 8.1 Private Singpass Digital Signing Application Partners offer Sign with Singpass capabilities. Some of these services are open to members of the public to sign their documents.
 - 8.2 MinLaw’s Legal Technology Platform (“**LTP**”) offers Sign with Singpass capabilities, for paid subscription LTP users.⁶
 - 8.3 E-Litigation subscribers can make use of the Document Signing Service (“**DSS**”) on e-Litigation.⁷

⁶ More information about the LTP can be found at <https://ltpi.mlaw.gov.sg/>

⁷ More information about the DSS on e-Litigation can be found at [https://www.elitigation.sg/ layouts/IELS/HomePage/Pages/PortalFaq.aspx](https://www.elitigation.sg/layouts/IELS/HomePage/Pages/PortalFaq.aspx) > “Document Signing Service (DSS) Guide for eLitigation Users”

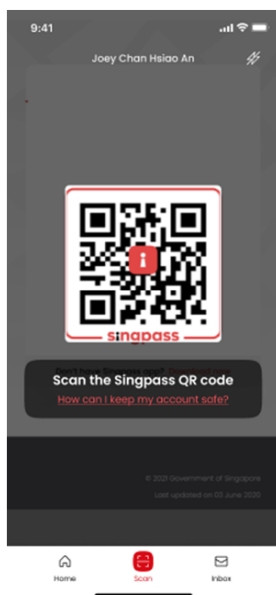
ANNEX C – Sign with Singpass

1. How to use Sign with Singpass

How to digitally sign with singpass

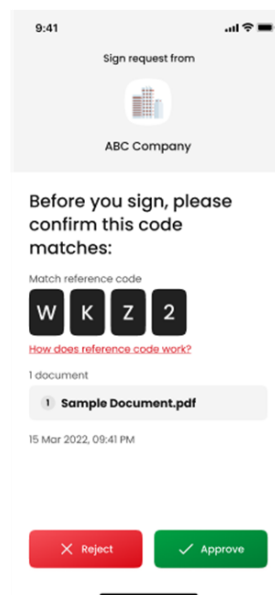
1

Scan the QR code on the screen



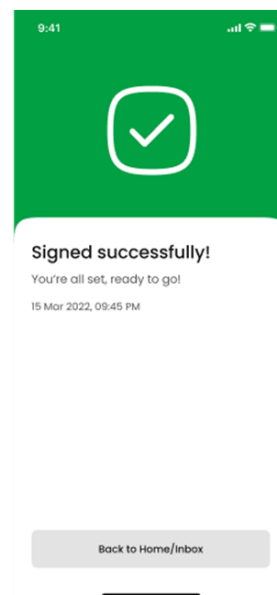
2

Match the reference code with that on the screen and verify your identity.

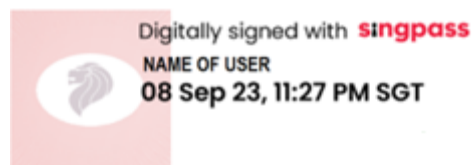


3

You're done!









2. After the user follows the instructions, the following visual representation of the electronic signature will appear on the document:

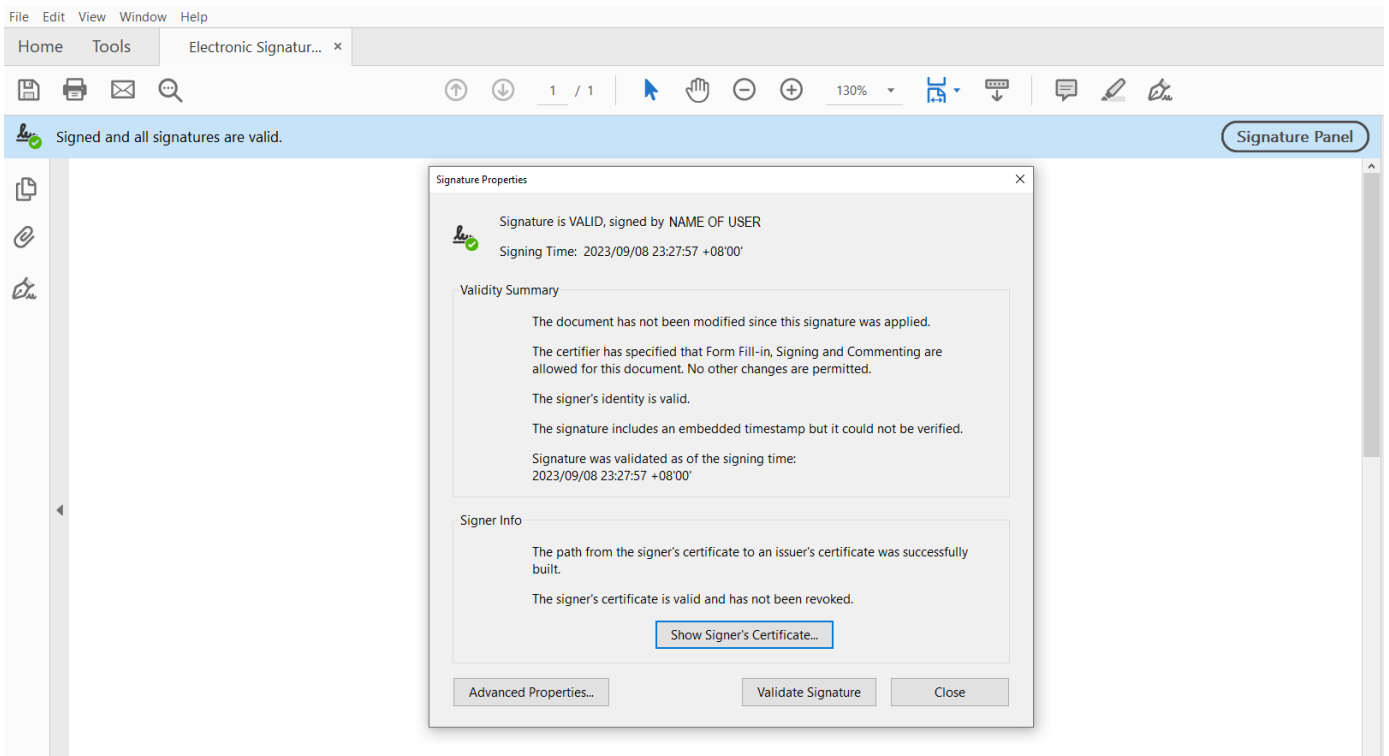


Note: This visual representation is *not* the digital signature. The digital signature is the cryptographic hash of the electronic record which has been encrypted with the signer's private key.

3. The electronic document will reflect one of the following status of the electronic signature.

	Sig Status	Identity Check	Document Integrity Check
	Certified	Verified. Certification signature	Document has not changed or only contains permitted changes. ¹
	Valid	Verified. Approval signature	Document unchanged.
	Valid, but changed	Verified. Approval signature	Permitted changes have been signed. ¹
	Problematic	Certificate validation problem ^{3,4,5,6}	Unsigned changes after the signature. ^{1,2}
	Unknown	Check has not executed ⁷	Integrity check has not executed. ⁷
	Invalid	Signer's certificate expired or revoked at time of signing ⁸	Illegal changes made, document corrupted, or policy restrictions violated. ^{1,9}

4. If no alteration is made to the document after the electronic signature is appended, the electronic document will show that the signature is “valid”.



5. The electronic document reflects if changes have been made after signing with Sign with Singpass.

