

Electronic signatures in Queensland Answers to frequently asked questions (FAQs)

Electronic Signatures – What are the options?

Realworks subscribers are able to arrange for documents to be signed electronically through either **Sign on Screen** or **Remote Sign**.

- **Sign on Screen** is when you are in front of your client and the client uses a cursor or pen device to sign on the screen of the device, similar to using a pen to sign on paper.
- **Remote Sign** is when the client is located in a remote location and the finalised form is sent to a party. That party follows simple directions to insert their adopted signature onto the form and then receives a copy. A copy of the signed document is also received back by the client.

Currently, Realworks subscribers can use **Remote Sign** through DocuSign, which is integrated in Realworks with REIQ's sale contracts.

Is it legal to use DocuSign?

Yes.

In Queensland, the *Electronic Transactions Act (Queensland) Act 2001 (ETA)*, which mirrors equivalent Commonwealth legislation, sets out a framework for signing documents electronically. Relevantly, the ETA provides that if a person's signature is required, this will be taken to be met for an electronic communication if:

- A method is used to identify the user, and their intention in respect of the information communicated in that document; and
- The method used is reliable and appropriate having regard to the circumstances; and
- The person signing the document consents to using an electronic communication to sign the document.

The REIQ sale contracts, when used in conjunction with DocuSign in Realworks, satisfy the requirements of the ETA

Is it easy to use DocuSign?

Yes, it is very easy to make use of DocuSign. After finalising your form in Realworks, click on the electronic signing icon in the signature block and then choose **Remote Sign** which will direct you through the DocuSign signing process.

Do I need to have each party's email address?

Yes. You will need to obtain each party's email address to allow execution of the document. You also have to explain to them why you require this. If they provide you with their email addresses, you can assume they consent to dealing with you electronically and proceed on that basis.

If each individual party does not have a unique email address accessible to that individual by using their own login and password details, we do not recommend that you proceed with DocuSign. This is also applicable when a husband and wife share the same email address.

Can I use DocuSign for all my transactions?

At this stage we recommend that only transactions involving the sale of land (Property Sales forms in Realworks) use DocuSign in Realworks. **This however does not extend to signing transfer or mortgage documents associated with the sale of land, which is currently excluded in Queensland.** Forms that have been authorised for electronic signing (DocuSign) within Realworks are marked with the DocuSign tag in the forms list.

We are presently working with other key stakeholders to expand this to other transactions facilitated through Realworks.

Agents must always take steps to properly verify the identity of the parties, including meeting with them face to face if possible, prior to facilitating execution of any contract through DocuSign in Realworks.

Do witnesses also need to sign a document when using DocuSign?

For transactions between two parties that do not involve a Corporation, a signature from each party to the contract is all that is required. There is no requirement for the contract to be witnessed, or for each page of the contract to be initialed.

For transactions between two parties that involve a Corporation, the document should be signed by parties authorised to sign on behalf of that company. This may include two directors, or a company secretary and a director.

Do all parties need to sign up to DocuSign to use the signing facility?

No. If, as agent, you choose to use DocuSign through Realworks, neither the Vendor or Purchaser is required to sign up to DocuSign.

If each of the parties agrees to sign the contract electronically, and provides the agent with their respective email addresses, both parties will receive an email setting out the process to review and sign the contract. The DocuSign process can be used on a computer, smartphone, or tablet device.

What if the signature on the screen does not like the person's normal signature when signing in ink?

The individual's email address, together with their intention to be bound as evidenced through their consent to sign the contract electronically, is sufficient.

The same principle applies for people who cannot write. Such individuals can sufficiently be bound, even in ink, by placing a mark or "X" on the document where indicated.

Will the parties executing the contract be given a copy?

Yes, each of the parties will receive a PDF copy of the executed REIQ sale contract by email immediately after the last party signs the document.

Why are the parties to the contract not required to initial each page if using DocuSign?

The anti-tampering functionality of DocuSign prevents any changes being made to the document at any time whilst it is in transit, or post execution. This is why initialing each page is not necessary.

Information about certifications held by DocuSign in respect of protecting consumer data can be found at <https://www.docusign.com/trust/compliance/certifications>.

Can you sign in counterparts?

Yes, all REIQ sale contracts were recently amended to allow those documents to be signed in counterparts.

As agent, what should I provide to the parties' lawyer or conveyancer after the contract is executed?

On execution of the REIQ sale contract through DocuSign in Realworks, the agent will immediately receive an email containing an attachment with a PDF copy of the executed contract.

A Certificate of Completion is available from within Realworks and contains the following key information:

- the names of the parties who signed the document, along with samples of their signatures;
- the email address used by each of the parties;
- the date upon which the contract was sent to each of the parties;
- the date upon which each of the parties:
 - viewed the contract; and
 - signed the contract;
- each party's IP address; and
- a unique code indicating that the user signed the contract with DocuSign through Realworks.

We recommend that agents seek and obtain instructions from the parties as soon as practicable to provide the parties' lawyer or conveyancer with a copy of the executed contract and the Certificate of Completion so that they can verify the transaction with their respective clients and commence the conveyancing process.

How can a party's lawyer or conveyancer be satisfied that an REIQ sale contract has been executed through DocuSign in Realworks?

The Certificate of Completion contains a unique code indicating that the contract was signed through DocuSign in Realworks. The same unique code is printed on each page of the executed contract.