



UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Information Technology Services

Information and Cybersecurity Awareness

Email ithelp@up.ac.za | www.up.ac.za/itsecurity



Electronic signatures—legalities

“Small actions, big difference – welcome to the digital neighbourhood”

You have been requested to sign and return a document sent to you by email. Would it be legal to paste a copy of your signature in the document? It depends.

Introduction

The South African Electronic Communications and Transactions (ECT) Act legalises two methods for electronically signing a document:

- Using an electronic signature
- Using an advanced electronic signature

An **electronic signature** is defined as data attached to, incorporated in, or logically associated with other data, which is intended by the user to serve as a signature. Such data may take the form of an ink signature in a scanned copy of a signed document; a scanned copy of an ink or e-pen signature pasted into a document using a software tool such as Adobe Acrobat; or even a name typed in an electronic signature at the bottom of an email. The intention that it should serve as a signature is key.

An **advanced electronic signature** is an electronic signature resulting from a process or a product accredited by the South African Accreditation Authority (SAAA). The only two accredited service providers are



Law Trust and the SA Post Office. Adobe is not an accredited product, but may be used for electronic signatures.

Legal requirements

An electronic signature can be used in most transactions, unless the law specifically prohibits its use or requires an advanced electronic signature for that type of transaction; or if parties to the transaction agree on another method of signing.

Where a signature is required by law and the type of signature is not specified, an advanced electronic signature must be used.

Guidelines

If you have doubts about the validity and security related to using an electronic signature, consider the following guidelines:

- If uncertain, ask the recipient to confirm that your method of inserting a signature is acceptable.
- Send your signed document directly to the recipient to minimise opportunities for unwanted interference.
- Use electronic signature software with built-in anti-fraud technology to create an audit trail that will indicate any tampering with the document.
- When using a digital certificate to create an advanced electronic signature, make sure that the service provider is accredited with the SAAA and the certificate refers to an advanced electronic signature.

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