



Help! Have I signed my document correctly? | 1

VOISIN LAW

Parties spend significant time and costs agreeing the terms of contracts, but only when a contract is correctly executed and dated will those agreed terms come into effect and a party be able to enforce its rights. Below I answer 7 commonly raised questions relating to the execution of documents.

1. Who needs to sign?

Only those parties that have obligations under the document generally need to sign it. The type of entity signing a document will generally dictate who should sign, as for example, the manner in which a company is required to enter into a contract is different to that of say a partnership and it should always be checked that the person signing has authority to do so.

2. The document is a deed, can I sign it?

Although, the concept of a deed does not exist under Jersey law, the term “deed” is often used, especially in the trust industry. With regards to English law deeds, reference would need to be made to the UK’s Overseas Companies (Execution of Documents and Registration of Charges) Regulations 2009, which govern how overseas companies should execute contracts, deeds or other documents under English law. The general rule being that a document (including a deed) can be validly executed under English law by an overseas company using either of the following methods:

- by affixing its common seal; or
- in any manner permitted by the laws of the territory in which the overseas company is incorporated for the execution of documents by that company.

3. Counterparts - What does this clause mean? Do I need one?

In order to speed up the process of signing a document, the document may be signed ‘in counterpart’. This is where a copy of the document is produced for each party signing. The parties then each sign one of the copies rather than all of them, which, when brought together, form a complete executed document.

The inclusion of a counterpart clause will reduce the risk of one of the parties arguing that, for example, as not all of the parties have signed the same document, the document is not binding.

4. Changes to documents executed but not dated

In some instances, changes need to be made to a document after it has been executed but before it has been dated. Such changes can be evidenced by appending to the document clear evidence that such changes have been agreed and made by a person authorised by the parties, for example, their lawyers.

5. Changes to documents once they have been signed and dated

Once a document has been signed and dated, it may be the case that the document needs to be varied. The document should be checked to see if it has a variation clause, failing which, in relation to most contracts under Jersey law, provided all the parties to the agreement consent in writing, it can be amended by a simple agreement in writing and it should always be checked whether any third party’s consent is required.



6. Can I backdate a document?

As Agathon famously remarked *“Even the gods cannot alter the past.”* The same principle holds good in Jersey law, a document cannot be backdated and the execution of a backdated document with a view to mislead may involve criminal offences. That being said, it has been held that parties may agree between themselves that a document should state that it is effective from an earlier date, but this is not true retrospectively as only the parties to the agreement are affected and not any third parties. The document should also of course be dated the day it is signed.

7. Beware the type of document

It is important to note that certain types of document such as wills and powers of attorney must be signed in accordance with the relevant legislation to ensure they are valid and enforceable.

It is essential that contracts are always executed properly to ensure their validity and operation as the consequences of executing a document incorrectly can be severe.