

HM Land Registry Introduces Temporary Changes to Executing Deeds

May 15, 2020

This advisory outlines temporary changes introduced by the HM Land Registry in May on how to validly sign documents being executed as deeds for Land Registry purposes through a five step process that satisfies options and restrictions proposed in 2010 by the 'Mercury Rule.'

On Monday 4 May, HM Land Registry introduced temporary changes to how documents being executed as deeds can be validly signed, so that they would be acceptable for Land Registry purposes.

The historic position

Recent guidelines on executing documents as deeds can trace their origins back to the decision in the 2008 High Court case, *Mercury Tax Group Ltd v HMRC*. Here, the judge held that a page containing original wet ink signatures cannot be transferred from an incomplete document on to another, in order to effectively execute a complete and amended final version of that other document.

However, this isn't helpful where there are logistical problems in getting all signatories together to sign documents or timing issues in posting final agreed versions of documents to signatories. This led to the overly formal practice where full versions of documents were being printed and returned to conveyancers after signing, regardless of how large the documents were.

Signing deeds to satisfy the 'Mercury Restrictions'

In 2010, a joint working party, including The City of London Law Society, in response to the Mercury ruling, proposed various options for signing documents in a way that do not fall foul of the Mercury ruling, and the Land Registry have now announced that one of those options will be accepted by it when registering deeds.

The five step signing process, which the Land Registry requires for an acceptable 'Mercury Approach', is as follows:

- Step 1: Final agreed copies of the document are emailed to each party by their conveyancer;
- Step 2: Each party prints the *signature page* only;
- Step 3: Each party signs the signature page (in pen) in the *physical presence* of a witness;
- Step 4: The witness signs the same signature page; and
- Step 5: Each party sends a single email to their conveyancer, to which are attached the final agreed copy of the document and a PDF/JPEG or other suitable copy of the signed signature page.

The update to the Land Registry accepted policy will remain in force until further notice.

Continued limitations

It should be noted that the Land Registry are still not accepting electronic signatures for the registration of deeds, and the requirements for witnessing a document have not changed (i.e. witnessing must be done in person and cannot happen over a video call).

QUERIES

This is an explanatory reference note produced for guidance only. It should not be treated as legal advice on any specific situations. For more information, please contact Katten's [Real Estate](#) practice or the following attorney :



Rhodri Preece
+44 (0) 20 7776 7646
rhodri.preece@katten.co.uk

Katten

katten.com

Paternoster House, 65 St Paul's Churchyard • London EC4M 8AB

+44 (0) 20 7776 7620 tel • +44 (0) 20 7776 7621 fax

Katten Muchin Rosenman UK LLP is a Limited Liability Partnership of Solicitors and Registered Foreign Lawyers registered in England & Wales, regulated by the Law Society.

A list of the members of Katten Muchin Rosenman UK LLP is available for inspection at the registered office. We use the word “partner” to refer to a member of the LLP. Attorney advertising. Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

Katten Muchin Rosenman UK LLP of England & Wales is associated with Katten Muchin Rosenman LLP, a US Limited Liability Partnership with offices in:

CENTURY CITY | CHARLOTTE | CHICAGO | DALLAS | HOUSTON | LOS ANGELES | NEW YORK | ORANGE COUNTY | SHANGHAI | WASHINGTON, DC

5/15/20