



Jersey

## **ELECTRONIC COMMUNICATIONS (AMENDMENT No. 2) (JERSEY) LAW 2022**

**A LAW** to enable the witnessing of signatures to be effected by electronic means; and for connected purposes.

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<i>Adopted by the States</i>	<i>8th October 2021</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>16th February 2022</i>
<i>Registered by the Royal Court</i>	<i>25th February 2022</i>
<i>Coming into force</i>	<i>11th March 2022</i>

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

### **1 Electronic signatures**

- (1) The [Electronic Communications \(Jersey\) Law 2000](#) is amended as follows.
- (2) In Article 1 (interpretation), in paragraph (1) –
  - (a) in the definition of “electronic communication”, after subparagraph (b) there is inserted –

“and a reference to an electronic communication includes a reference to an electronic record;”;
  - (b) after the definition of “electronic signature” there is inserted –

““electronic storage” means storage of an electronic record;”.
- (3) In Article 2 (power for Regulations to modify legislation), in paragraph (3)(b) “delivered as a deed or” is deleted.
- (4) After Article 9 there is inserted –

#### **“9A Validity of electronic signatures**

A signature, seal, attestation or notarisation is not to be denied legal effect, validity or enforceability only because it is in electronic form.

**PART 2A****ELECTRONIC SIGNATURES****9B Remote witnessing of signatures**

- (1) A requirement, whether under an enactment or otherwise, that the signature of a person on a document must be witnessed may, in addition to any other lawful means of witnessing that signature, be satisfied if –
  - (a) at the time the document is signed, the person who signs the document (the signatory) and the person who witnesses the signature (the witness) are able to see one another by means of an audio-visual link; and
  - (b) either paragraph (2) or (3) applies.
- (2) This paragraph applies if –
  - (a) by means of that link, the witness positively identifies the signatory and sees the signatory sign the document;
  - (b) the signatory sends an electronic copy of the document to the witness; and
  - (c) the witness signs the document attesting to the signature of the signatory on the document.
- (3) This paragraph applies if –
  - (a) at the time the document is signed the signatory and the witness are also in communication by any other electronic means;
  - (b) the signatory and the witness can both see the document;
  - (c) the signatory makes his or her electronic signature on or in relation to the document; and
  - (d) the witness signs the document attesting to the signature of the signatory on the document.
- (4) Despite paragraphs (2)(c) and (3)(d), a person who has witnessed electronically the signature of a signatory to a document may at any time make a declaration in writing attesting to that fact.

**9C Authority to attach electronic signature for another**

- (1) This Article applies where a person is required or authorised to sign a document.
- (2) The person (A) may authorise another person to attach A's electronic signature to the document on A's behalf.
- (3) Paragraph (2) applies despite any rule or presumption relating to –
  - (a) agency;
  - (b) delegation.
- (4) In the case of a signature required or authorised to be provided to a States entity or to a person acting on behalf of a States entity, despite

paragraph (2), the entity may require that the signature is attached by –

- (a) a specified individual;
- (b) an individual of a specified description.

- (5) This Article does not apply to the signature of a Minister required for the purpose of making Jersey subordinate legislation (within the meaning of the [Legislation \(Jersey\) Law 2021](#)).

#### **9D Power to exclude application of Articles 9B and 9C**

The Minister may by Order provide that Article 9B or 9C does not apply to such cases or in such circumstances as are specified in the Order.”.

- (5) In Article 10 (exemptions – Part 3) –
- (a) in the heading, “– Part 3” is deleted;
  - (b) in paragraph (1) for “this Part, or a specified provision of this Part” there is substituted “a relevant provision”;
  - (c) in paragraph (2) for “this Part does” there is substituted “the relevant provisions do”;
  - (d) after paragraph (2) there is inserted –  
“(2A) The relevant provisions are –
    - (a) the provisions of this Part;
    - (b) Articles 9A, 9B and 9C.”.
- (6) In Article 12 (requirement for signature) –
- (a) after paragraph (1)(c)(ii) there is inserted –
    - “(iii) any requirements specified by the entity as to the identity of the person by whom the signature is to be provided are met.”;
  - (b) paragraph (3) is deleted.

## **2 Citation and commencement**

This Law may be cited as the Electronic Communications (Amendment No. 2) (Jersey) Law 2022 and comes into force 14 days after it is registered.