



April 6, 2020

Dear Client,

As part of our continuous effort to diligently work to provide the highest quality of legal services to our clients, we have prepared this third review of the Defense Law.

Defense Order No. (5), as issued by the Prime Minister, outlined the use of electronic methods for application submissions to the Companies Control Department. We would like to briefly address specific legal implications and formalities regarding Electronic Signatures per the Electronic Transactions Law No. (15) for the year 2015.

Best Regards,

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The Definition of Electronic Signatures

- Article 2 of the Electronic Transactions Law No. (15) of 2015 defined an Electronic Signature as:

Any data that takes the form of letters, numbers, symbols, signs or other characters, which are inserted electronically, or in any other similar means on the electronic record or are added to or linked to the record in order to identify the signatory.

- As for UNCITRAL Model Law on Electronic Signatures, it defined Electronic Signatures in article 2/1 as:

"The data in electronic form, affixed to or logically associated with, a data message, which may be used to identify the signatory in relation to the data message and to indicate the signatory's approval of the information contained in the data message."

The Function of Electronic Signatures

Parties to any contractual or commercial relationship may use Electronic Signatures to conduct their commercial and official transactions, excluding the following transactions:

- Create and modify wills.
- Establish endowments and modify its conditions.
- Transactions on immovable assets, and movable assets that require a formality for registration by Law, including related proxies, title deeds, and establishing in-rem rights over movable assets. An exception is applied to lease contracts regarding movable assets.
- Proxies and transactions related to Personal Status.
- Notices related to canceling or revoking water, electricity, health and life insurance contracts.
- Statements of claim, pleadings, judicial notices and court decisions.
- Securities, except as provided in special instructions issued by competent authorities in accordance with the Securities Law or any other legislation.



Types of Electronic Signatures

a) Protected Electronic signature

- An Electronic Signature “E-Signature” is protected if the following conditions are jointly met:
 - The Signature is unique and distinguished by/through its association with the person of concern.
 - The Signature is sufficient to identify the identity of its owner.
 - The Signature is created by personal means related to the signatory and under his control.
 - The E-Signature is related to the record it was made on, in a manner that does not allow any amendments to be made on the record without changing the Signature.

b) Authenticated E-Signature

An Electronic signature is considered to be authenticated once the above requirements for protected E-Signature are met and a Certificate of Electronic Authentication verifying the Signature, by any of the following authorities:

- An electronic authentication entity licensed in the Kingdom.
- Any Governmental Authority, whether a Ministry or an official Public Institution or a Quasi-Governmental Authority or a Municipality, approved by the Cabinet provided it meets the requirements of the Telecommunication Regulatory Commission.
- The Ministry of Digital Economy and Entrepreneurship.
- The Central Bank of Jordan in relation to electronic finance and banking activities.

Evidence Rule of Electronic Signatures:

- The electronic record associated with a Protected E-Signature has the same Evidence Rule as the Regular Instrument, as defined below, may be used as evidence before a Court of Law by the parties of the electronic transaction.
- The electronic record associated with an Authenticated E-Signature has the same Evidence Rule as the regular instrument, which may be used as evidence before a Court of Law by the parties of the electronic transaction and any third party.



In cases other than those stipulated above, an electronically signed record holds the same Rule of Evidence as the regular instrument before the parties of the electronic transaction. In the event a Party of an electronically signed instrument denies its execution, the Party claiming the authenticity thereof will be the party responsible for proving the same.

Referring to the Evidence Law, Article (5) stipulates that: Signed evidences are either an **Official Instrument** or a **Regular Instrument**.

- The Electronic Transactions Law stipulates the following regarding **Official Instruments**:
 - Any Ministry, Official Public Institution, Quasi-Governmental Authority, or Municipality may conduct its transactions using electronic means provided that the requirements for electronic transactions mentioned in this law.
 - Any Ministry, Public Official Institution, Quasi-Governmental Authority, or Municipality, may conduct any of its transactions by electronic means, provided that such authority issues the instructions required in ordered to:
 - Create, deposit, archive, or issue electronic records.
 - Use the Electronic Signature and any other conditions related to it.
 - The Security, protection, and confidentiality of electronic records and transactions.
- As for **Regular Instruments**, Article 10 of the Evidence Law stipulates the following:
 - Documents including the signature of the issuing person or entity, or their stamp, or their fingerprint, do not have the capacity of an Official Instrument.
 - A Regular Instrument: is an instrument that a person signs regarding a legal transaction without the involvement of a public employee. There are no set of formalities required for executing a Regular Instrument, and the parties enjoy the leverage to adopt any form for the execution of a Regular Instrument.

E-Signatures may be adopted, whether in their protected or authenticated form. In the event a Party of an electronically signed instrument denies its execution, the Party claiming the authenticity thereof will be the party responsible for proving the same.

Therefore, we highly recommend confirming that the person executing and sending an electronically signed instrument is the authorized signatory signing on behalf of the entity when contracting using E-Signatures.