

Electronic Transactions Law

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The Electronic Transactions Law does not itself pertain to a certain system, but rather provides a set of provisions relating to the use of electronic communication as a recognisable mechanism in Kuwait. The Electronic Transactions Law provides certainty for electronic transactions and allows electronic commerce to operate on the same basis as paper transactions. Prior to the issuance of the Electronic Transactions Law, it was a requirement of a paper transaction that a person:

- Give information in writing;
- Provide a handwritten signature;
- Produce a document in material form; and
- Record or retain information

As per the provisions of the Electronic Transactions Law, a person is now allowed to satisfy a legal requirement for a manual signature by using an electronic communication. Additionally, article 9 of the Electronic Transactions Law sets forth the conditions which give the electronic document legal effect. For example, the electronic communication must be maintained in the form in which it was created, sent and received, or in any other form which proves the accuracy of the information contained in the document as it was sent, created or received. Notwithstanding the above, the Electronic Transactions Law has exempted the following from its operation:

- Transactions and means pertaining to personal affairs, waqf and wills;
- Property deeds for real estate and the resulting original or complementary rights;
- Promissory notes and tradable vouchers; and
- Any document which is required to be made as an official document, registered by law or which is required by another law, e.g. attestation certificates (except as defined under article 24 of the Electronic Transactions Law).

What is notable about the Electronic Transactions Law is that an electronic signature holds the same legal effect as a manual signature on a paper transaction. The electronic signature may refer to the information in the form of letters, numbers or symbols, which may be filled in electronically, digitally, optically, or in any other similar means, on an electronic document or register (or one added or relating thereto), which has a stamp that allows determination of the identity of the signatory and which differentiates him from others.

The Electronic Transactions Law provides that a signature shall be considered as a protected electronic signature if the following conditions are met:

- Means of determining the identity of the signatory;
- Connection of the signature to the signatory himself only;
- Execution of the signature using a safe signature tool which is controlled by the site alone during signature; and
- Means of detecting any change in the information pertaining to the protected signature or the relation

between the information and signature.

The Electronic Transactions Law aims to streamline and unify the laws to allow for both the electronic retention of original paper copies, and to effectively grant legally binding status to original electronic documents and signatures.