



# Official Gazette of Iraq

## Law of Electronic Signatures and Transactions

No. (78) of 2012

قانون التوقيع والمعاملات الإلكترونية

Translated in  
Ministry Of Justice  
Iraqi Gazette Office  
Translation department  
2019



## **Laws**

---

**In the name of people**

**Presidency council**

### **Resolution No. (70)**

In accordance with what had been approved by the parliament pursuant to the provisions of item (first) of article (61) and item (third) of article (73) of the constitution.

The president decided on 18/10/2012 issuing the following law:

### **No. (78) Of 2012**

### **The Law of Electronic Signatures and Transactions**

#### **Chapter One**

#### **Definitions**

### **Article 1**

For the purposes of this law, the following terms shall have the opposite meanings:

First: The minister: The minister of communication

Second: The Company: The general company of international information network services in the ministry of communication.



## Laws

---

Third: The information: Data, texts, pictures, shapes, sounds and icons and the like, that are created, combined, saved, processed, sent or received by electronic means.

Fourth: Electronic signature : its personal mark that takes the form of letters, numbers, symbols, signs, sounds or other things and it has unique character indicating its belonging to the signee and shall be approved.

Fifth: The electronic writing: Each letter, number, symbol or any other sign that is fixed on an electronic, digital, optical or any other similar means that gives a comprehensible and understandable indication.

Sixth: Electronic transactions: Requests, documents and transactions made by electronic means.

Seventh: Electronic means: Applications, equipment, electric, magnetic, optical or electromagnetic instruments or any other means used for creating, processing, exchanging and saving data.

Eighth: Electronic Medium: Electronic program or system of computer or any other electronic means used to execute a procedure or respond to a procedure in order to establish, send or receive an information message.

Ninth: Electronic documents: All pieces of writing and documents that emerged, mixed, saved, sent, or received wholly or partially by electronic means including electronic data exchange, E mail, telegraph, telex, or telecopy with electronic signature.



## Laws

---

Tenth: Electronic contract: The offer engagement made by one of the contractors to accept other contractor in a manner that proves its effect on the issue contracted by electronic means.

Eleventh: Certificate: A document that is issued by the certification authority in accordance with the provisions of this law that is used to prove the validity of the electronic signature of the signee.

Twelfth: Identification code: The code that assigned by the certification authority for signee in order that he/she uses it in the electric transactions.

Thirteen: Data processing system: the electronic system or computer program that is used for creating, sending, receiving, processing, or saving data electronically.

Fourteenth: Certification authority: The legal person authorized to issue electronic signature certificates in accordance with the provisions of this law.

Fifteenth: Signee: The natural or legal person possessing signature creation data signed on the electronic documents. He/she signs for himself /herself or his /her legal representative.

Sixteenth: Consignee: The person the electronic documents are sent to him.

Seventeenth: Electronic device a mean of means or system for creating an electronic signature.

Eighteenth: Financial institutions: The licensed bank or any institutions authorized to deal with financial transfers in accordance with the provisions of the law.

Nineteenth: Illegal financial records: Any financial record added to the customer's account without his / her knowledge, consent or authorization.



## **Laws**

---

### **Chapter Two**

#### **The aims and validity of the law**

##### **Article 2**

This law aims to:

First: Providing the legal frame to use the electronic means in the electronic transaction.

Second: Granting the legal conclusiveness to the electronic signature and transactions and organizing their provisions.

Third: Enhancing the confidence in the validity and integrity of the electronic transactions.

##### **Article 3**

First: The provisions of this law shall be applied to:

- a. Electronic transactions implemented by natural or legal persons.
- b. Transactions whose parties agree to implement them by electronic means.
- c. Financial and commercial electronic securities.



## Laws

---

Second: The provisions of this law shall not be applied to the following:

- a. Transactions related to personal status matters and personal materials.
- b. Establishing the will and endowment and amending their provisions.
- c. Transactions related to the disposal of immovable property, including the related agencies and title deeds, and the establishment of in-kind rights over them, with the exception of the rental contracts related to these funds.
- d. Transactions for which formulates a specific formality
- e. Court procedures, judicial announcements, attendance announcements, search and arrest warrants and judicial rulings.
- f. Any document required by law to be authenticated by the public notary.

## Chapter (Tree) Electronic Signature

### Article 4

**First:** The electronic signature shall be considered valid and issued by the signee if the means are available to determine the identity of the signee and indication of his/ her agreement with what is stated in the electronic document and in accordance with the agreement of the signee and consignee on how to conduct the electronic transaction.

**Second:** The electronic signature within the scope of the authentic, civil, commercial and administrative transactions the same conclusiveness prescribed for a written signature, if taking into account the conditions stipulated in article (5) of this law.



## Laws

---

### Article 5

The electronic signature shall have the exclusiveness of proof if it is approved by the authentication authority and the following conditions are fulfilled:

First: The electronic signature relates to the signee alone and not others

Second: The electronic medium should be under the control of the signee alone and not others.

Third: Any amendment or alteration of the electronic signature is subject to detection.

Fourth: It is established in accordance with the procedures determined by the ministry with instructions issued by the minister.

### Article 6

The company shall undertake the following:

First: Granting the authentication certificates after obtaining the minister's approval in accordance with the law.

Second: Defining the technical standards for electronic signature systems and setting their technical specifications.

Third: Following-up and supervising the performance of the authorities working in the field of issuing authentication certificates and rectifying their performance.

Fourth: Examining complaints related to electronic signature activities or authenticating the certificate and electronic transactions and making appropriate decisions regarding them in accordance with the law.



## Laws

---

Fifth: Providing technical advice to the bodies working in the fields of electronic signature and authentication of certificates.

Sixth: Holding training courses for workers in the fields of electronic signature, certification of certificates, and holding educational seminars and conferences in this regard.

### Article 7

The certification issuance activity may not be practiced without obtaining a license in accordance with the provisions of this law.

### Article 8

When granting licenses to practice the issuance of certification activity, the company shall observe the following conditions:

First: Ensuring competition and openness in choosing the licensee.

Second: Specifying an appropriate period for the validity of the license.

Third: Specifying the means of technical and financial supervision and follow-up in a manner that guarantees the good performance of the licensed entities.

Fourth: It is not permissible to stop the practice of the licensed activity or merge with other parties, or to cede in whole or in part, the license to others during the period of its effectiveness, except after obtaining the approval of the company and in accordance with the law.

Fifth: The licensee must have the human and material requirements necessary to practice the profession of authenticating electronic signatures.

Sixth: To submit a bail to fulfill the fines, compensations or other financial obligations provided that the bail remains valid for the duration of the license.





## Laws

---

Seventh: To have a steady and known work place for practicing the activity related to the license.

Eighth: The affirmation of the competent authorities that there is not a security impediment to granting the license.

### Article 9

The certificate shall be deemed canceled in one of the following two cases:

First: The death of the natural person or the termination of the legal person.

Second: If the information related to the creation of the electronic signature turns out to be false, fraudulent, or inconsistent with the reality, or if the system of creating the electronic signature is compromised or when unlawful use of the certificate.

### Article 10

The licensee shall commit to the following:

First: Issuing, receiving and storing, saving the electronic certificates of the authentication by using reliable mechanisms and programs in order to protect them from counterfeiting and fraud

Second: keeping an open electronic record of authentication certificates to review it electronically continuously by those who deal with signatories on related information including suspension date of certificate and their revocation , provided that a commitment to protect it from any illegal change takes place.

Third: Ensuring authenticity of information authenticated in the certificate on the date of receiving them and the link between signatory and audit system and the



## Laws

---

review related to his / her and the signee shall be alone in the system of creating his/ her electronic signature.

### Article 11

First: The licensee shall commit to suspend working in electronic authentication certificates immediately upon request of signatory.

Second:

- a. The licensee may suspend working in authentication certificates if he /she finds that it was used illegal purpose and the information was changed he/ she shall immediately notify the signatory about the suspend and its cause.
- b. The signatory and other may appeal the suspension to competent court from date of its publishing in the electronic record stipulated in the item (second) of article (10) of this law.

Third: The signatory shall commit to notify authentication authority of any illegal use of him/her signature and any change in the information that contained in the certificate.

### Article 12

First: The licensed authorities shall provide the company or competent court with what it requires of reports, information and data related to activities that they practice.

Second: Considering the provisions of the item (first ) of this article , the signature data, the electronic means and information that submitted to authentication authority shall be confidential and it is not permissible for that to whom they are provided or accessed by virtue of his / her work may not disclose them to others or use them in a manner other than the purpose for which they are provided.



## Laws

---

### **Chapter four** **The electronic documents**

#### **Article 13**

First: The electronic documents, writing and contracts shall have legal authenticity to their paper counterparts if the following conditions are met.

- a. The information mentioned in it is savable and can be retrieved at any time.
- b. The possibility of retaining them in the form which they are created, sent, received or in any form that facilitates proof of accuracy of information that mentioned in them when created, sent or received in a form is not amended by addition or deletion.
- c. The information mentioned in them is indicating who creates or receives them and date and time of sending and receiving them.

Second: The conditions stipulated in the item (first) of this article shall not be applied on the information accompanying documents that are intended to facilitate sending and receiving them.

Third: The signatory and recipient may verify the authenticity of electronic document in all methods of proof prescribed by law.

#### **Article 14**



## Laws

---

The photocopy of the electronic document shall have the original copy if the following conditions are met:

First: The information and data of photocopy shall be identical to the original.

Second: The electronic document and signature shall be available on electronic medium.

Third: The information and data of the photocopy can be saved and stored so that it can be referenced when needed.

Fourth: The photocopy can be saved in the form that the original copy of the electronic document is created, sent or received and shall be kept in accordance with laws and instructions of saving documents.

Fifth: The copy contains information indicating the signatory, recipient, date and time of sending and receiving.

### Article 15

First: When conducting a transaction by electronic means, the information related to it or its sending or receiving may be provided to other by paper means if the addressee is able to print this information, store it and refer to it later by the means available for him.

Second: The signatory may prevent the addressee from using the electronic documents other than the purpose for which it is intended; otherwise these documents are not binding on the signatory.

### Article 16

If the law requires use of signature on an official or regular document and has an effect on its absence on them, then if the electronic signature on it becomes an electronic document, it shall be substitute for the signature if it is done in accordance with provisions of this law.

### Article 17



## Laws

---

- First : The electronic document or any part of it holds electronic signature shall be deemed documenting the entire document or in relation to that part according to the situation if the signature takes place during period of validity of accredited authentication certificate , and it shall be matched with the identification code shown in that certificate .
- Second: The electronic document shall be considered documenting from date of its establishing and is not subject to any amendment unless it is proven otherwise.

### **Chapter five** **The electronic contracts**

#### **Article 18**

- First: The offer and acceptance of the contract may take place by an electronic mean.
- Second: The electronic documents shall be deemed being issued by the signatory whether by him/ her or his/ her behalf or by an electronic medium prepared to work automatically by the signatory or on his/ her behalf.
- Third: The consignee may prepare electronic documents issued by the signatory and act accordingly in any of the following cases:
- a. If the consignee uses an information processing system that has already been agreed with the signatory to be used for this purpose to verify that the electronic documents issued by the signatory.
  - b. if the documents received by the consignee are the result of actions taken by a person affiliated with the signatory or his/ her representative and authorized to



## Laws

---

access the electronic means used by either of them to determine the identity of the signatory .

Fourth: The electronic documents shall not be considered as issued by the signatory if the consignee is aware that the document is not issued by the signatory or does not take the usual care to confirm this.

### Article 19

First: If the signatory requests the consignee by an electronic document to notify him/ her of the receipt of such document or agrees with him/ her on that, the consignee's notification to the signatory by the electronic means or any other means or by taking any action or behavior indicating he/ she has received the document shall be considered as a response to that request.

Second: If the signatory makes the effect of the electronic document conditional on his/ her receiving a notification of receipt from the consignee, the document shall be deemed not received until the receipt of the notification.

Third: If the signatory requests the consignee to receive a notification of the electronic document and does not specify a time limit for that, and does not make the effect of the document conditional on his/ her receipt of that notification, he/ she may, in the event that he/ she does not receive the notice within a reasonable period, ask the consignee to send the notification within a certain period.

Fourth: The consignee's receipt notification to the signatory shall be deemed a proof that the content of the received document is identical to the content of the document sent by the signatory unless otherwise proved.

### Article 20



## Laws

---

First: Electronic documents shall be deemed sent from the time they enter an information processing system that is not under the control of the signatory or the person who sends it on his/ her behalf, unless the signatory and the consignee agree otherwise.

Second: If the consignee has specified an information processing system to receive the documents, they shall be deemed to be received when they enter the system if they are sent to a system other than the one specified, they shall be considered sent since the consignee returned it to the system specified by him/ her to receive the information.

Third: If the consignee does not specify an information processing system for the receipt of electronic documents, the time of receipt shall be deemed the time of entry into any information processing system of the consignee.

## Article 21

First: The electronic documents sent from the place where the signatory's workplace is located and they shall be deemed received at the consignee's workplace where the consignee is located. If neither of them has a workplace, the workplace, the place of residence shall be deemed the workplace, unless the signatory and the consignee have agreed otherwise.

Second: If the signatory and the consignee have more than one workplace, the closest workplace related to the transaction shall be deemed the place of sending or receiving, and when it is not possible to determine, the main workplace shall be deemed the place of sending or receiving.



## Laws

---

### Chapter Six

### Commercial, Financial and Electronic Securities

#### Article 22

First: Commercial and financial securities may be created electronically if the following conditions are met:

- a. They meet the same conditions and data that must be available in commercial and financial securities stipulated by the law.
- b. The information processing system should be able to prove the right in them and verify that the electronic signature belongs to the parties concerned.

Second: The information processing system shall be deemed able to prove the right in the commercial paper if the following conditions are met:

- a. Ensuring safe circulation of the commercial paper.
- b. Ensuring circulation of the commercial paper is immutable.
- c. Showing the names of stakeholders in the commercial paper.

#### Article 23

First: Unless otherwise provided by law, commercial, financial and electronic papers shall have the same authenticity determined for their paper counterparts.





## **Laws**

---

Second: The provisions of paper commercial and financial securities stipulated in the law shall be applied to electronic commercial and financial securities in a manner consistent with the provisions of this law.

### **Chapter Seven**

#### **Electronic Funds Transfer**

##### **Article 24**

Funds may be transferred by electronic means.

##### **Article 25**

Every financial institution conducting electronic fund transfer shall take measures to ensure providing safe services customers and maintain the confidentiality of banking transactions.

##### **Article 26**

First: The customer may ask the financial institution not to use the electronic means of transfer or suspend work in respect of his/ her funds, except in the case of a legal impediment.

Second: The customer shall not be liable for any illegal entry entered into his/ her account by an electronic transfer unless caused by his/ her error or negligence.

##### **Article 27**

The electronic transfer of funds, including the adoption of electronic payment methods, illegal register, error correction procedures, disclosure of information and



## **Laws**

---

any other matters related to electronic banking shall be regulated by a system proposed by the Central Bank of Iraq.

### **Chapter Eight**

### **Final Provisions**

#### **Article 28**

First: Regulations may be issued to facilitate the implementation of the provisions of this law.

Second: The minister may issue instructions to facilitate the implementation of the provisions of this law.

#### **Article 29**

This law shall be entering into force once it is published in the gazette.

**Jalal Talabani**



## **Laws**

---

## **President of the Republic**