

Snapshot: welcome updates to Electronic Communications Law

Insights - 31/01/2022

The Government of Jersey has approved further modernising amendments to the Electronic Communications (Jersey) Law 2000 (the **EComms Law**).

The amendments, which will come into force shortly following Privy Council approval, follow directions given by the Bailiff in the early days of the Covid-19 pandemic concerning "remote" witnessing of signatures, and will provide helpful statutory clarity concerning the use of electronic signatures and video conferencing systems.

Specifically, the updated EComms Law will confirm that signatures can be validly witnessed over an audio-visual link where the witness either (i) positively identifies the signatory and sees the signatory sign a document, is sent an electronic copy of that signed document by the signatory and signs the document to attest to the signature, or (ii) is utilising screen-sharing software to see and sign the same document.

In each case, the audio-visual link must be maintained in order for the remote witnessing to take place.

In a funds context, this will be particularly relevant where subscription agreements containing powers of attorney (such as in favour of a general partner or directors of a fund company) are executed by individuals or other persons which are not bodies corporate.

The amendments will also confirm that a signatory may authorise another person to attach the signatory's electronic signature on their behalf, and that no signature, seal, attestation or notarisation will be deemed invalid by reason of it being in electronic form.

The adoption of digital technologies and remote working behaviours may have been accelerated by the global pandemic, but these are undoubtedly here to stay. As such, the modernised framework of the amended EComms Law is most welcome.

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