

The Electronic Transactions (Electronic Agents) (Guernsey) Ordinance, 2019

THE STATES, in pursuance of their Resolution of the 25th October, 2018^a, and in exercise of the powers conferred on them by sections 14(1) and 21 of the Electronic Transactions (Guernsey) Law, 2000, as amended^b and all other powers enabling them in that behalf, hereby order:-

Legal effect of actions carried out by means of an electronic agent.

1. Sections 2 and 3 make provision for the legal effect of actions carried out by means of an electronic agent.

2. (1) A contract or any provision thereof shall not be denied legal effect, validity, enforceability or admissibility solely because its making, formation, creation or delivery involved the action or use of one or more electronic agents.

(2) An action executing, performing or terminating a contract shall not be denied legal effect, validity, enforceability or admissibility solely because it involved the action of one or more electronic agents.

(3) A contract may be made, formed or created by the interaction

^a Article XII of Billet d'État No. XXIII of 2018.

^b Order in Council VIII of 2000; as amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003); the Electronic Transactions (Obligation to use Electronic Form) (Guernsey) Ordinance, 2014 (No. XIV of 2014); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the Electronic Transactions (Cheque Imaging) (Guernsey) Ordinance, 2017 (No. XXIV of 2017).

of electronic agents, acting on behalf of the parties, even where no natural person was aware of, or reviewed, the electronic agents' actions or the resulting terms.

(4) A contract may be made, formed or created by the interaction of an electronic agent, acting on behalf of one party, and a natural person, acting on his or her own behalf or for another person, even where no natural person on whose behalf the electronic agent was acting was aware of, or reviewed, the electronic agent's actions or the resulting terms.

(5) A contract may be made, formed or created by the interaction of an electronic agent, acting on behalf of one, or more, parties to the contract, with information in electronic form, even where no natural person on whose behalf the electronic agent was acting was aware of, or reviewed, the information, the electronic agent's actions, or the resulting terms.

(6) An electronic agent may act on behalf of one or more parties to the same transaction.

(7) For the purposes of this section "**contract**" includes a document, record, notice or instrument producing legal consequences.

(8) The provisions of this section are for the avoidance of doubt.

Presumption of intention to create a legally binding contract.

3. Where an electronic agent has acted on behalf of a person for the purposes of the making, formation or creation of a contract, there is a rebuttable presumption that that person intended to create a legally binding contract.

Nothing to prejudice the rules of private international law.

4. The provisions of this Ordinance are without prejudice to the operation and application of the rules of private international law (and accordingly the legal effect, validity, enforceability and admissibility of a contract or any provision thereof will continue to be determined by the system of law applicable to the contract or that provision, or governing its legal effect, validity, enforceability or admissibility, according to the rules of private international law).

Ordinance not applicable to transactions covered by Exemptions Order.

5. The provisions of this Ordinance do not apply to transactions, matters or things exempted from the application of sections 1 to 5 and 8 of the Electronic Transactions (Guernsey) Law, 2000 by the provisions of the Electronic Transactions (Exemptions) Order, 2001^c.

Interpretation.

6. In this Ordinance "**electronic agent**" means a computer program or electronic or other automated means used independently to initiate an action or to respond in whole or in part to information or actions in electronic form or communicated by electronic means, without review or action by a natural person.

Citation.

7. This Ordinance may be cited as the Electronic Transactions (Electronic Agents) (Guernsey) Ordinance, 2019.

Commencement.

8. This Ordinance shall come into force on the 1st March, 2019.

^c Guernsey Statutory Instrument No. 13 of 2001.