

## ELECTRONIC SIGNATURE

### What is an electronic signature?

Generally speaking, an electronic signature (or e-signature) is a technical process logically associated with a document which two (or more) individuals or organizations (the signatories) agree to rely on in order to express their intent to sign such document. Three components are therefore necessary: a document, a signatory and an e-signature tool. While the tool most commonly used for handwritten signatures is a simple pen, electronic signature tools are typically more complex.

From a regulatory standpoint, an electronic signature is a broad category that encompasses many types (or levels) of electronic signatures.

Depending on the country it is used in, there are differences in purpose, legal acceptance, technical implementation and cultural acceptance of electronic signatures. In particular, e-signature requirements tend to vary significantly between most “civil law” countries (including the European Union and many countries in South America and Asia), and most “common law” countries (such as the United States, Canada and Australia). Civil law countries typically support a “tiered” approach including higher levels of signature often called digital or qualified electronic signatures (typically required for specific types of contracts), as opposed to common law jurisdictions which are typically more technology-neutral.



In addition, some industries (such as healthcare or banking) and documents (such as marriage or adoption contracts) may require a higher level of e-signature.

### What are the laws and regulations in Malaysia?

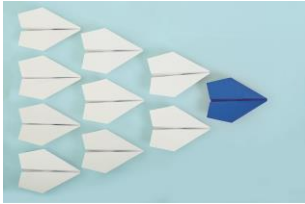
Electronic signatures are permitted in Malaysia per the Electronic Commerce Act 2006. As a best practice, employers should follow the requirements outlined in the Act to ensure there are no disputes relating to the validity of an employee's signature:

- The electronic signature must be attached or associated with the electronic message;
- the signature must adequately identify the signer and indicate their approval of the information in the document (to which the employee's signature relates); and,
- the signature must be reliable and appropriate given the purpose and circumstances in which the employee's signature is required. A signature is deemed reliable if the method for creating the

signature is linked to and only under the control of the signer. Alterations made to the electronic signature or document after signing must be detectable.

### Is an electronic signature valid in Malaysia?

Yes. In the context of employment, electronic and physical signatures have the same value in Malaysia. Any disputes as to the validity of signatures will come down to a question of proof.



#### HR Best Practices:

Electronic signatures are allowed in the employment context in Malaysia. When using electronic signatures, ensure that appropriate safeguards are in place and that any changes made to the document after signing are detectable.

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