Electronic Signatures in Ireland
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Introduction

Electronic signatures (“e-signatures”) have been legally recognised in Ireland since the introduction of the Electronic Commerce Act in 2000 (the “2000 Act”) which allows online signatures to be recognised in Irish law. Irish businesses have been slow to recognise the potential value, in terms of cost and time, in using e-signatures.

Reinforcing the 2000 Act, Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market (the “eIDAS Regulation”) came into force on 1 July 2016 and states that an e-signature will not be denied legal effect purely on the grounds that it is in an electronic format.

The eIDAS Regulation was designed to facilitate a more efficient e-commerce environment and does this by providing stricter rules for the supervision of e-signatures and by increasing security accountability for trust service providers (“TSPs”) who offer the service of creating, verifying, and validating e-signatures.

The Three Levels of E-Signatures

E-signatures have the same legal standing as a handwritten signature but the eIDAS Regulation differentiates between three levels of e-signature, the use of each being dependent on the circumstances of the signing:

- Simple e-signatures (SES) – data in electronic form which is associated with other electronic data and used for signing purposes, such as typed signatures;
- Advanced e-signatures (AES) – these are signatures which are uniquely linked to and capable of identifying the signatory; and
- Qualified e-signatures (QES) – these are electronic signatures created by a qualified electronic creation device and based on a qualified certificate for e-signatures.

It is the job of the Department of Communications, Climate Action & Environment to supervise TSPs established in Ireland.

A TSP may be awarded an EU Trust Mark, indicating reliability in its provision of trust services. The TSP may then issue a qualified certificate for e-signatures. These certificates ensure the authenticity and data integrity of an electronic signature and its accompanying message and attached data.

E-signatures in Practice in Ireland

EU Member States are required to recognise and accept electronic identification, e-signatures, electronic seals, and electronic time stamps. Recent English caselaw has even highlighted that electronic methods of signing - such as a typed name in an email and an acceptance button - are sufficient to satisfy the statutory requirement for a signature.

However, despite the backing of e-signatures by legislation and caselaw, there still exists in Ireland a lack of confidence and a certain unease surrounding the use of e-signatures to sign a document or execute a document as a deed.

It is expected that this hesitancy to use e-signatures in Ireland will dissipate as those involved in e-commerce become more aware of the value of e-signatures and the potential savings in cost and time. This is especially so with the imposition of increased supervision and increased security requirements inspiring greater confidence in online transactions.
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