

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR ECONOMIC DEVELOPMENT

PROPOSED ENACTMENT OF AN ORDINANCE TO EMPOWER GUERNSEY'S COURTS TO
COMPEL THE USE OF ELECTRONIC TRANSACTIONS

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'Proposed Enactment of an Ordinance to Empower Guernsey's Courts to Compel the Use of Electronic Transactions' dated 3rd August 2026, they are of the opinion:-

1. To agree that a statutory power should be provided to empower Guernsey's courts to compel the use of electronic transactions, and that this may be best achieved by Ordinance as provided for under section 9(2) of the Electronic Transactions (Guernsey) Law, 2000.
2. To direct the preparation of such legislation as may be necessary to give effect to the above decision.

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The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

3rd August 2026

Dear Sir

1 Executive Summary

- 1.1 The primary purpose of the Electronic Transactions (Guernsey) Law, 2000 ("the ET Law") is to facilitate the use of electronic documents in Guernsey, providing certainty and clarity as to the legal effectiveness of things done in electronic form, such as the use of electronic signatures on documents.
- 1.2 Section 11 of the Law empowers the Committee *for* Economic Development ("the Committee") to exclude specific matters from the ET Law. Exemptions to the Law were made by the former States Advisory and Finance Committee through the enactment of The Electronic Transactions (Exemptions) Order, 2001¹ ("the Exemptions Order").
- 1.3 Legal advice was provided by St James' Chambers to the Committee, Bailiwick Law Enforcement ("BLE") and the Royal Court, regarding two items that were (until recently) exempted from the ET Law: 'the Courts Exemption' and 'the Affidavits Exemption'. Advice from Chambers was that it was preferable to remove those exemptions in order to facilitate the use of electronic transactions within BLE and in court proceedings.
- 1.4 The Committee subsequently enacted The Electronic Transactions (Exemptions) (Amendment) Order, 2025, to repeal the Courts Exemption and the Affidavits Exemption from the Exemptions Order. This Order was laid separately before the States on 24th June 2026.

¹ <https://www.guernseylegalresources.gg/CHttpHandler.ashx?documentid=50466>

- 1.5 Section 8 of the ET Law permits specified legal requirements to be fulfilled in an electronic form. This includes the legal requirement for a document to be in writing and for it to be signed and for it to be served. This means, for example, that an electronic document with an electronic signature, served via email, would be sufficient to fulfil that legal obligation.
- 1.6 Guernsey's courts are undergoing a programme of digital transformation and have introduced (and intend to expand the use of) a new case management system, 'Case Center'.
- 1.7 Section 9(1) of the ET Law states that section 8 *"does not compel a person to do or accept anything in electronic form or by electronic means, unless an Ordinance says otherwise"*. Such an Ordinance can be made under section 9(2).
- 1.8 The use of the Case Center court system is to be mandatory unless the court otherwise directs. Therefore, the Committee proposes that an Ordinance is created under section 9(2) of the ET Law to empower the courts to compel electronic transactions.

2 The Electronic Transactions (Guernsey) Law, 2000 and The Electronic Transactions (Exemptions) Order, 2001

- 2.1 The ET Law was enacted to facilitate the use of electronic transactions in Guernsey. Under the ET Law, information, declarations, statements, contracts, signatures and documents shall not be denied legal effect, validity, enforceability or admissibility solely because they are in electronic form. In short, the ET Law provides certainty and clarity as to the legal effectiveness of things done in electronic form.
- 2.2 The Exemptions Order was enacted to exempt certain documents or categories of documentation from the ET Law.
- 2.3 Case Center is a web-based system, developed to collect, manage, review and present digital evidence. It requires the uploading of documentation to the courts in electronic form. To support the shift towards digitisation of court processes via this new system, and the digitisation of BLE, the Committee has enacted an Order to repeal two such exemptions from the Exemptions Order, the Affidavits Exemption and the Courts Exemption:
 - a) The Affidavits Exemption (Article 1(f) of the Exemptions Order) exempted affidavits and statutory and sworn declarations from the ET Law. The recent repeal of this exemption brings certainty as to the validity of electronic (as opposed to 'wet ink') signatures in such a context. The repeal does not otherwise alter the legal requirements of such documents (such as the need

for an affidavit to be sworn before a qualified person) - it merely facilitates electronic form.

- b) The Courts Exemption (Article 1(i) of the Exemptions Order) exempts court rules, practices and procedures (including pleadings, judgments and order) from the ET Law. This was a broad phrase with not particularly well-defined limits. The repeal of this exemption provides greater legal clarity and certainty over the legal effectiveness of electronic transactions used in court proceedings.

- 2.4 It should be noted that these repeals do not on their own guarantee the validity, admissibility or binding effect of future electronic transactions previously covered by that repealed exemption. Transactions will still need to comply with any other applicable legal requirements falling outside of the ET Law, and there may be other reasons why a document would be ruled invalid or inadmissible in court proceedings. The aim of these repeals is simply to remove the possibility that such transactions are ineffective solely because they are in electronic form, and for no other reason.

3 An Ordinance to Compel Electronic Transactions

- 3.1 A major element of the digitisation of the courts is reliant on the full implementation of Case Center. The system requires the uploading of digital documentation to be considered by the courts.
- 3.2 In support of the digital transformation of the courts and BLE, the Committee recommends that a statutory provision is made to empower the courts to compel persons to use only electronic forms and/or means, which could best be achieved through the enactment of an Ordinance under section 9(2) of the ET Law.
- 3.3 Once empowered by such a provision, the court would have flexibility in terms of enforcement. For example, the Ordinance could permit the Court to issue a Practice Direction or Rules of Court to give general directions, or to give judicial directions in specific cases. This ensures that the court can regulate its own procedure and achieve a just outcome, including (if the court deems fit) a rule permitting hardcopy papers in court proceedings, for example, where there are exceptional reasons justifying that and the court has consented to that.
- 3.4 An example of such an Ordinance disapplying section 9 of the ET Law is the [Electronic Transactions \(Obligation to use Electronic Form\) \(Guernsey\) Ordinance, 2014](#) ("the Obligation Ordinance"). Where documents are required or permitted to be given to the Guernsey Financial Services Commission, section 1(1) of the Obligation Ordinance obliges people to give them "*in such electronic form and by such electronic means as the Commission may require.*" The intention is to take a similar approach, this time to benefit Guernsey's courts.

4 Compliance with Rule 4

4.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

4.2 In accordance with Rule 4(1):

- a) The propositions contribute to the States' objectives and policy plans through improved public service security, as set out in the Government Work Plan area of focus 'Island Resilience', which includes '...ensuring residents are safe, and enhancing government's digital capabilities and preparedness.'
- b) In preparing the propositions, consultation has been undertaken with Bailiwick Law Enforcement, the Royal Court and St James' Chambers.
- c) The propositions have been submitted to His Majesty's Procureur for advice on any legal or constitutional implications.
- d) There are no financial implications to the States of carrying the proposal into effect.

4.3 In accordance with Rule 4(2):

- a) The propositions relate to the Committee's purpose and policy responsibilities as the sponsoring Committee of electronic transactions legislation.
- b) The propositions have the unanimous support of the Committee.

Yours faithfully

A Kazantseva-Miller
President

M Laine
Vice President

R Humphreys
M Leadbeater
L van Katwyk

B R Duerden
Non-Voting Member