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# 中华人民共和国电子签名法（2019修订）

# Electronic Signature Law of the People’s Republic of China (Amended in 2019)

中华人民共和国电子签名法

Electronic Signature Law of the People’s Republic of China

（2004年8月28日第十届全国人民代表大会常务委员会第十一次会议通过　根据2015年4月24日第十二届全国人民代表大会常务委员会第十四次会议《关于修改〈中华人民共和国电力法〉等六部法律的决定》第一次修正　根据2019年4月23日第十三届全国人民代表大会常务委员会第十次会议《关于修改〈中华人民共和国建筑法〉等八部法律的决定》第二次修正）

(Adopted at the 11th Session of the Standing Committee of the 10th National People's Congress of the People's Republic of China on August 28, 2004; amended for the first time according to the Decision on Revising Six Laws including the Electric Power Law of the People's Republic of China passed at the 14th Session of the Standing Committee of the 12th National People's Congress of the People's Republic of China on April 24, 2015; and amended for the second time according to the Decision on Amending Eight Laws Including the Construction Law of the People's Republic of China passed at the 10th Session of the Standing Committee of the 13th National People's Congress on April 23, 2019)

第一章 总 则

Chapter 1 General Provisions

第一条   为了规范电子签名行为，确立电子签名的法律效力，维护有关各方的合法权益，制定本法。

Article 1. This Law is formulated for the purposes of standardising the conduct of electronic signature, confirming the legal validity of electronic signature and safeguarding the legal rights and interests of the relevant parties.

第二条   本法所称电子签名，是指数据电文中以电子形式所含、所附用于识别签名人身份并表明签名人认可其中内容的数据。

Article 2 "Electronic signature" referred to herein shall mean data incorporated into or associated with any electronic form, which may be used to identify the signatory and indicate the signatory's approval of the information contained in the data message.

本法所称数据电文，是指以电子、光学、磁或者类似手段生成、发送、接收或者储存的信息。

Data telex "referred to herein shall mean information generated, sent, received or stored by electronic, optical, magnetic or similar means.

第三条   民事活动中的合同或者其他文件、单证等文书，当事人可以约定使用或者不使用电子签名、数据电文。

Article 3 Parties involved in civil activities may agree to use or not to use electronic signature and data telex for contracts or other documents and instruments.

当事人约定使用电子签名、数据电文的文书，不得仅因为其采用电子签名、数据电文的形式而否定其法律效力。

Documents for which the parties concerned agree to the use of electronic signature and data telex shall not be denied of legal validity on the ground of electronic signature and data telex being used.

前款规定不适用下列文书：

The preceding paragraph shall not apply to the following documents:

（一）涉及婚姻、收养、继承等人身关系的；

1. personal relationships such as marriage, adoption and inheritance are involved;

（二）涉及停止供水、供热、供气等公用事业服务的；

(II) Documents concerning stopping the supply of water, heat, gas and other public utility services; and

（三）法律、行政法规规定的不适用电子文书的其他情形。

(III) Other circumstances under which electronic documents do not apply as prescribed by laws and administrative regulations.

第二章 数据电文

Chapter 2 Electronic Data

第四条   能够有形地表现所载内容，并可以随时调取查用的数据电文，视为符合法律、法规要求的书面形式。

Article 4 Data telex that tangibly express the content it recorded and can be investigated and checked at any time shall be deemed as compliance with the written form provided by law and regulations.

第五条   符合下列条件的数据电文，视为满足法律、法规规定的原件形式要求：

Article 5 Any data message meeting the following requirements shall be regarded as satisfying the requirements for the form of the original as prescribed by laws and regulations:

（一）能够有效地表现所载内容并可供随时调取查用；

1. Being capable of effectively showing the contents it specifies, and which may be accessed for reference and used at any time; and

（二）能够可靠地保证自最终形成时起，内容保持完整、未被更改。但是，在数据电文上增加背书以及数据交换、储存和显示过程中发生的形式变化不影响数据电文的完整性。

2. It can be reliably guaranteed that the contents remain complete and unchanged from the time of final formation. However, the integrity of the data message is not affected by the addition of endorsement to the data message and changes in form that occur during data exchange, storage and display.

第六条   符合下列条件的数据电文，视为满足法律、法规规定的文件保存要求：

Article 6 Any data message meeting the following requirements shall be regarded as satisfying the requirements for document preservation as prescribed by laws and regulations:

（一）能够有效地表现所载内容并可供随时调取查用；

1. Being capable of effectively showing the contents it specifies, and which may be accessed for reference and used at any time; and

（二）数据电文的格式与其生成、发送或者接收时的格式相同，或者格式不相同但是能够准确表现原来生成、发送或者接收的内容；

2. the format of the data message is the same as that when it is created, sent or received, or the format is different but is able to accurately represent the contents originally created, sent, or received; and

（三）能够识别数据电文的发件人、收件人以及发送、接收的时间。

(III) Being able to identify the addresser, the addressee, and the time of sending and receiving.

第七条   数据电文不得仅因为其是以电子、光学、磁或者类似手段生成、发送、接收或者储存的而被拒绝作为证据使用。

Article 7 No electronic data may be rejected for being used as evidence simply because it was created, sent, received or stored by way of electronic, optical, magnetic or similar means.

第八条   审查数据电文作为证据的真实性，应当考虑以下因素：

Article 8 The following factors shall be considered when examining the authenticity of any data message as evidence:

（一）生成、储存或者传递数据电文方法的可靠性；

1. The reliability of the methods used in creating, storing or transmitting the electronic data;

（二）保持内容完整性方法的可靠性；

(II) The reliability of the methods used to maintain the integrity of the contents;

（三）用以鉴别发件人方法的可靠性；

(III) The reliability of the methods used to identify the sender;

（四）其他相关因素。

(IV) Other relevant factors.

第九条   数据电文有下列情形之一的，视为发件人发送：

Article 9 Under any of the following circumstances, the data message shall be regarded as being sent by the addresser:

（一）经发件人授权发送的；

1. Being sent with the authorization of the addresser;

（二）发件人的信息系统自动发送的；

(II) An information system of the sender automatically sends;

（三）收件人按照发件人认可的方法对数据电文进行验证后结果相符的。

(III) The consequence is consistent after the validation on the data message by the addressee according to the method approved by the addresser.

当事人对前款规定的事项另有约定的，从其约定。

Where the parties agree otherwise on the matters prescribed in the preceding paragraph, their agreement shall be followed.

第十条   法律、行政法规规定或者当事人约定数据电文需要确认收讫的，应当确认收讫。发件人收到收件人的收讫确认时，数据电文视为已经收到。

Article 10 Where receipt acknowledgement of the data telex is required by laws and administrative regulations or agreed between the parties, the recipient shall acknowledge receipt of the data telex. Upon receipt by the sender of the recipient's acknowledgement of receipt, the data message shall be deemed to have been received.

第十一条   数据电文进入发件人控制之外的某个信息系统的时间，视为该数据电文的发送时间。

Article 11 The time when a data message enters an information system outside the control of the originator shall be deemed to be the time when the data message is sent.

收件人指定特定系统接收数据电文的，数据电文进入该特定系统的时间，视为该数据电文的接收时间；未指定特定系统的，数据电文进入收件人的任何系统的首次时间，视为该数据电文的接收时间。

The time at which a data message enters the specific system designated by the recipient for the receipt of data messages shall be deemed to be the time at which the data message enters such specific system; if no specific system is designated, the time at which the data message enters any system of the recipient for the first time shall be deemed to be the time at which the data message is received.

当事人对数据电文的发送时间、接收时间另有约定的，从其约定。

Where the parties agree otherwise on the time of sending and receiving of data telex, such agreement shall prevail.

第十二条   发件人的主营业地为数据电文的发送地点，收件人的主营业地为数据电文的接收地点。没有主营业地的，其经常居住地为发送或者接收地点。

Article 12 The principal place of business of the originator is the place where data messages are sent and the principal place of business of the addressee is the place where data messages are received. If there is no main place of business, the habitual residence shall be considered the sending or receiving place.

当事人对数据电文的发送地点、接收地点另有约定的，从其约定。

In case the interested parties have different stipulations on the place for sending or receiving data message, the stipulations shall be followed.

第三章 电子签名与认证

Chapter 3 Electronic Signature and Certification

第十三条   电子签名同时符合下列条件的，视为可靠的电子签名：

Article 13 Any electronic signature, which satisfies the following conditions, shall be regarded as reliable electronic signature:

（一）电子签名制作数据用于电子签名时，属于电子签名人专有；

1. If data made by electronic signature is used for electronic signature, and if it is owned exclusively by the electronic signatory;

（二）签署时电子签名制作数据仅由电子签名人控制；

(II) The data made by electronic signature is controlled only by the electronic signatory when signing;

（三）签署后对电子签名的任何改动能够被发现；

(III) Any alteration to the electronic signature after signing can be detected; and

（四）签署后对数据电文内容和形式的任何改动能够被发现。

(IV) Any alteration to the content and form of any data message after signing can be found out.

当事人也可以选择使用符合其约定的可靠条件的电子签名。

The parties may choose other electronic signatures which comply with their agreement on reliable requirements.

第十四条   可靠的电子签名与手写签名或者盖章具有同等的法律效力。

Article 14. Reliable electronic signatures shall have the same legal validity as handwritten signatures or seals.

第十五条   电子签名人应当妥善保管电子签名制作数据。电子签名人知悉电子签名制作数据已经失密或者可能已经失密时，应当及时告知有关各方，并终止使用该电子签名制作数据。

Article 15 The electronic signatory shall keep electronic signature creation data properly. In case that an electronic signatory knows that data made by electronic signature has given away official secrets or may give away official secrets, he shall notify relevant parties in time, and terminate the use of the data made by electronic signature.

第十六条   电子签名需要第三方认证的，由依法设立的电子认证服务提供者提供认证服务。

Article 16 Where a third party's certification is required for the electronic signature, such certification service shall be provided by a legally established electronic certification service provider.

第十七条   提供电子认证服务，应当具备下列条件：

Article 17 The following conditions shall be met when providing electronic certification services:

（一）取得企业法人资格；

1. Obtain corporate capacity;

（二）具有与提供电子认证服务相适应的专业技术人员和管理人员；

(II) Having professional technicians and managers who are suited to provide electronic certification services;

（三）具有与提供电子认证服务相适应的资金和经营场所；

(III) Having capital and a place of business that meets the requirements for providing electronic certification services;

（四）具有符合国家安全标准的技术和设备；

(IV) Having technology and equipment that comply with the national safety and technology standards;

（五）具有国家密码管理机构同意使用密码的证明文件；

(V) Having certification documents that use codes that have been approved by the state code administration organ; and

（六）法律、行政法规规定的其他条件。

(VI) Other conditions prescribed by laws and administrative regulations.

第十八条   从事电子认证服务，应当向国务院信息产业主管部门提出申请，并提交符合本法第十七条规定条件的相关材料。国务院信息产业主管部门接到申请后经依法审查，征求国务院商务主管部门等有关部门的意见后，自接到申请之日起四十五日内作出许可或者不予许可的决定。予以许可的，颁发电子认证许可证书；不予许可的，应当书面通知申请人并告知理由。

Article 18. Proposed electronic certification service providers shall apply with the relevant materials to the information industry department of the State Council in accordance with the provisions of Article 17. Upon examination of an application by the information industry department of the State Council and concurring with the commerce administration department of the State Council, the information industry department of the State Council shall decide on approval or non-approval within 45 days from receipt of the application. An electronic certification licence shall be issued to successful applicants; unsuccessful applicants shall be notified in writing and the reason shall be stated.

取得认证资格的电子认证服务提供者，应当按照国务院信息产业主管部门的规定在互联网上公布其名称、许可证号等信息。

An electronic certification service provider who has obtained certification shall publicize its name, license number and other information on the Internet in accordance with the provisions of the department of information industry of the State Council.

第十九条   电子认证服务提供者应当制定、公布符合国家有关规定的电子认证业务规则，并向国务院信息产业主管部门备案。

Article 19 Electronic certification service providers shall formulate and promulgate electronic certification service rules in accordance with relevant State regulations and file them with the information industry department of the State Council for record.

电子认证业务规则应当包括责任范围、作业操作规范、信息安全保障措施等事项。

Electronic certification business rules shall cover the scope of liabilities, the criterions of operation, the information safeguard measures and other matters concerned.

第二十条   电子签名人向电子认证服务提供者申请电子签名认证证书，应当提供真实、完整和准确的信息。

Article 20. Electronic signatories shall provide true, complete and accurate information to their electronic certification service provider for the application of an electronic signature certificate.

电子认证服务提供者收到电子签名认证证书申请后，应当对申请人的身份进行查验，并对有关材料进行审查。

After receiving an application for an electronic signature certificate, the electronic certification service provider shall check the identity of the applicant and examine relevant materials.

第二十一条   电子认证服务提供者签发的电子签名认证证书应当准确无误，并应当载明下列内容：

Article 21 An electronic signature certification certificate signed by an electronic certification service provider shall be accurate and have no mistakes, and shall specify the following contents:

（一）电子认证服务提供者名称；

1. Name of the electronic certification service provider;

（二）证书持有人名称；

2. the name of the certificate holder;

（三）证书序列号；

3. Serial number of the certificate;

（四）证书有效期；

(IV) validity period of the certificate;

（五）证书持有人的电子签名验证数据；

(V) electronic signature verification data of the certificate holder;

（六）电子认证服务提供者的电子签名；

(VI) Electronic signature of the electronic certification service provider;

（七）国务院信息产业主管部门规定的其他内容。

(VII) Other contents prescribed by the competent department of information industry of the State Council.

第二十二条   电子认证服务提供者应当保证电子签名认证证书内容在有效期内完整、准确，并保证电子签名依赖方能够证实或者了解电子签名认证证书所载内容及其他有关事项。

Article 22. Electronic certification service providers shall guarantee the completeness and accuracy of the contents of the electronic signature certificate within the validity period of the certificate and that parties relying on the electronic signature are able to verify and understand the contents and other relevant matters recorded on the electronic signature certificate.

第二十三条   电子认证服务提供者拟暂停或者终止电子认证服务的，应当在暂停或者终止服务九十日前，就业务承接及其他有关事项通知有关各方。

Article 23. Electronic certification service providers suspending or terminating their electronic certification service shall inform the relevant parties of the service takeover and other matters at least 90 days prior to the suspension or termination of the service.

电子认证服务提供者拟暂停或者终止电子认证服务的，应当在暂停或者终止服务六十日前向国务院信息产业主管部门报告，并与其他电子认证服务提供者就业务承接进行协商，作出妥善安排。

In the event an electronic certification service provider intends to suspend or terminate his/her/its electronic certification service, he/she/it shall report to the department of information industry of the State Council 60 days before suspending or terminating the service, and negotiate with other electronic certification service providers about the carrying-on of the operation, so as to make proper arrangements.

电子认证服务提供者未能就业务承接事项与其他电子认证服务提供者达成协议的，应当申请国务院信息产业主管部门安排其他电子认证服务提供者承接其业务。

In the event an electronic certification service provider fails to reach an agreement on the carrying-on of the operation with another electronic certification service provider, he/she/it shall apply to the department of information industry of the State Council to arrange another electronic certification service provider to carry on the operation.

电子认证服务提供者被依法吊销电子认证许可证书的，其业务承接事项的处理按照国务院信息产业主管部门的规定执行。

In the event an electronic certification service provider's electronic certification licensing certificate is revoked in accordance with the law, the takeover of its business shall be handled in accordance with the provisions of the department of information industry of the State Council.

第二十四条   电子认证服务提供者应当妥善保存与认证相关的信息，信息保存期限至少为电子签名认证证书失效后五年。

Article 24. Electronic certification service providers shall maintain certification information properly for at least 5 years from the date of expiry of an electronic signature certificate.

第二十五条   国务院信息产业主管部门依照本法制定电子认证服务业的具体管理办法，对电子认证服务提供者依法实施监督管理。

Article 25 The competent department of information industry of the State Council shall formulate specific measures for the administration of electronic certification service industry in accordance with the present Law, and conduct supervision over electronic certification service providers according to law.

第二十六条   经国务院信息产业主管部门根据有关协议或者对等原则核准后，中华人民共和国境外的电子认证服务提供者在境外签发的电子签名认证证书与依照本法设立的电子认证服务提供者签发的电子签名认证证书具有同等的法律效力。

Article 26. Upon verification by the information industry department of the State Council on the basis of relevant agreements or reciprocity, electronic signature certificates issued overseas by foreign electronic certification service providers shall have the same legal validity as electronic signature certificates issued by electronic certification service providers established in accordance with the Law.

第四章 法律责任

Chapter 4 Legal Liabilities

第二十七条   电子签名人知悉电子签名制作数据已经失密或者可能已经失密未及时告知有关各方、并终止使用电子签名制作数据，未向电子认证服务提供者提供真实、完整和准确的信息，或者有其他过错，给电子签名依赖方、电子认证服务提供者造成损失的，承担赔偿责任。

Article 27 In the event an electronic signatory knows that any data made by electronic signature has given away official secrets or may have given away official secrets but fails to inform the relevant parties concerned in a timely manner and terminate the use of such data, or fails to provide authentic, complete and accurate information to the electronic service provider, or has any other fault resulting in losses to the party depending on electronic signature and the electronic certification service provider, he/she/it shall be liable for compensation.

第二十八条   电子签名人或者电子签名依赖方因依据电子认证服务提供者提供的电子签名认证服务从事民事活动遭受损失，电子认证服务提供者不能证明自己无过错的，承担赔偿责任。

Article 28. Where an electronic signatory or parties relying on the electronic signature for undertaking civil activities suffered losses from the electronic signature certification service provided by an electronic certification service provider, the electronic certification service provider shall be liable for compensation if it is unable to prove that it is not at fault.

第二十九条   未经许可提供电子认证服务的，由国务院信息产业主管部门责令停止违法行为；有违法所得的，没收违法所得；违法所得三十万元以上的，处违法所得一倍以上三倍以下的罚款；没有违法所得或者违法所得不足三十万元的，处十万元以上三十万元以下的罚款。

Article 29. Provision of electronic certificate service without licence shall be ordered by the information industry department of the State Council to cease the illegal activity and the illegal income shall be confiscated; a fine ranging from one to three times of the amount of illegal income shall be imposed if the amount of illegal income exceeds RMB300,000; a fine ranging from RMB100,000 to RMB300,000 shall be imposed if there is no illegal income or the amount of illegal income does not exceed RMB300,000.

第三十条   电子认证服务提供者暂停或者终止电子认证服务，未在暂停或者终止服务六十日前向国务院信息产业主管部门报告的，由国务院信息产业主管部门对其直接负责的主管人员处一万元以上五万元以下的罚款。

Article 30. Electronic certification service providers which suspend or terminate their electronic certification service without informing the information industry department of the State Council at least 60 days prior to the suspension or termination of the service shall have a fine ranging from RMB10,000 to RMB50,000 imposed by the information industry department of the State Council on the person-in-charge.

第三十一条   电子认证服务提供者不遵守认证业务规则、未妥善保存与认证相关的信息，或者有其他违法行为的，由国务院信息产业主管部门责令限期改正；逾期未改正的，吊销电子认证许可证书，其直接负责的主管人员和其他直接责任人员十年内不得从事电子认证服务。吊销电子认证许可证书的，应当予以公告并通知工商行政管理部门。

Article 31. Electronic certification service providers which do not comply with the certification service rules or fail to maintain certification information properly or commit other violations shall be ordered by the information industry department of the State Council to make correction within a stipulated time limit; where the correction is not made within the stipulated time limit, the electronic certification permit shall be revoked and the person-in-charge and other accountable personnel shall be prohibited from providing electronic certification service for a 10-year period thereafter. Withdrawal of the electronic certification licence shall be announced and the industrial and commercial administrative department shall be notified.

第三十二条   伪造、冒用、盗用他人的电子签名，构成犯罪的，依法追究刑事责任；给他人造成损失的，依法承担民事责任。

Article 32. Persons guilty of forgery and unauthorised use of other's electronic signature which constitutes a criminal offence shall be prosecuted for criminal liability in accordance with the law, and shall bear civil liability for losses suffered by other persons therefrom.

第三十三条   依照本法负责电子认证服务业监督管理工作的部门的工作人员，不依法履行行政许可、监督管理职责的，依法给予行政处分；构成犯罪的，依法追究刑事责任。

Article 33. Personnel of the department in charge of supervision and management of electronic certificate service which do not perform administrative licensing and supervision and management duties in accordance with the law shall be subject to administrative punishment in accordance with the law. Where the case constitutes a criminal offence, criminal liability shall be pursued in accordance with the law.

第五章 附 则

Chapter 5 Supplementary Provisions

第三十四条   本法中下列用语的含义：

Article 34 For purposes of this Law, the definitions of the following terms are:

（一）电子签名人，是指持有电子签名制作数据并以本人身份或者以其所代表的人的名义实施电子签名的人；

1. The "electronic signatory" shall refer to the person who holds data made by electronic signature, and who implements electronic signature in his own identity or on behalf of the person he represents;

（二）电子签名依赖方，是指基于对电子签名认证证书或者电子签名的信赖从事有关活动的人；

(II) "Party Depending on Electronic Signature" shall refer to the person who engages in relevant activities based on his trust in any electronic signature certification certificate or Electronic Signature;

（三）电子签名认证证书，是指可证实电子签名人与电子签名制作数据有联系的数据电文或者其他电子记录；

(III) "Electronic Signature Certification Certificate" shall refer to the data message or other electronic records that can prove that any electronic signatory has some connection with the data made by electronic signature;

（四）电子签名制作数据，是指在电子签名过程中使用的，将电子签名与电子签名人可靠地联系起来的字符、编码等数据；

(IV) "Data Made by Electronic Signature" shall refer to data such as the character, coding, etc., used in the course of electronic signature, and to connect the electronic signature with the electronic signatory; and

（五）电子签名验证数据，是指用于验证电子签名的数据，包括代码、口令、算法或者公钥等。

(V) "Electronic Signature Validation Data" shall refer to the data used for validating Electronic Signature, including codes, passwords, arithmetic or public keys, etc.

第三十五条   国务院或者国务院规定的部门可以依据本法制定政务活动和其他社会活动中使用电子签名、数据电文的具体办法。

Article 35 The State Council and other departments stipulated by the State Council may formulate specific measures on use of electronic signature and data telex in government activities and other social activities pursuant to this Law.

第三十六条   本法自2005年4月1日起施行。

Article 36. This Law shall be effective 1 April 2005.