



Jersey

# **ELECTRONIC COMMUNICATIONS (JERSEY) LAW 2000**

## **Official Consolidated Version**

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Jersey

## ELECTRONIC COMMUNICATIONS (JERSEY) LAW 2000

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Jersey

## **ELECTRONIC COMMUNICATIONS (JERSEY) LAW 2000**

A **LAW** to facilitate electronic business and the use of electronic communications and electronic storage, and to make other provisions in similar respects

Commencement [[see endnotes](#)]

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### **PART 1**

#### **INTERPRETATION**

##### **1 Interpretation**

(1) In this Law, unless the context otherwise requires –

“company” means a body corporate incorporated with or without limited liability in any part of the world, and includes any similar or equivalent structure or arrangement howsoever called;

“consent” includes consent that can reasonably be inferred from the conduct of the person concerned;

“data storage device” means any article or material (for example, a disk) from which information is capable of being reproduced, with or without the aid of any other article or device;

“document” includes a map, plan, design, drawing, picture or other image whether on paper or other material;

“electronic” includes electrical, digital, magnetic, electromagnetic, or any other technology that entails capabilities similar to those technologies;

“electronic communication” means a communication of information transmitted –

- (a) by means of guided or unguided electromagnetic energy or of both;  
or
- (b) by other means but while in electronic form;

“electronic record” means information generated, communicated, received or stored by electronic means in an information system;

“electronic signature” means a signature in electronic form attached to or logically associated with an electronic communication or electronic record;

“enactment” includes an enactment enacted after the date of this enactment;

“handle”, in relation to an electronic communication, means to dispatch, receive, store or otherwise process the communication;

“information” includes data, text, sounds, images, codes, computer programs, software and databases;

“information system” means a system designed to generate, dispatch, receive, store or otherwise process information;

“information technology requirements” includes software requirements;

“intermediary”, in respect of an electronic communication or electronic record, means a person who, on behalf of another person, handles the electronic communication or electronic record or provides other services with respect to the electronic communication or electronic record;

“Minister” means the Minister for Economic Development, Tourism, Sport and Culture;<sup>1</sup>

“modification” includes an alteration, addition or omission;

“non-profit body” means a body that is carrying on an operation or activity that is not for the purpose of profit or gain to its individual members and is, by the terms of its constitution, prohibited from making a distribution, whether in money, property or otherwise, to its members;

“originator”, in respect of an electronic communication or an electronic record, means a person by whom or on whose behalf the electronic communication or electronic record purports to have been dispatched or generated but does not include a person acting as an intermediary with respect to the electronic communication or electronic record;

“place of business”, in respect of a States entity, a government, an authority of a government or a non-profit body, means a place where any operations or activities are carried out by that States entity, that government, authority or body;

“prescribed” means prescribed by the Minister by Order;

“service provider” means –

- (a) a person who owns or operates an information system by means of which, on behalf of another, the person handles electronic communications; and
- (b) an employee or agent of a person referred to in sub-paragraph (a) acting in the course of the person’s employment or agency;

“signature” or “signed” includes any symbol executed or adopted, or any security procedure employed or adopted, using electronic means or otherwise by or on behalf of a person with intent to authenticate an electronic communication or electronic record;

“States entity” means –

- (a) an administration of the States;
  - (b) an officer of the States or a States’ employee within the meaning of Article 2 of the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#);
  - (c) a person who holds or performs the duties of an office under an enactment;
  - (d) an authority of the States created by an Act of the States or an enactment;
  - (e) an employee or officer of such an authority; or
  - (f) a parish or an employee or officer of a parish.<sup>2</sup>
- (2) In this Law a reference to the integrity of information is a reference to whether there has been any tampering with or modification of the information apart from –
- (a) the addition of an endorsement; or
  - (b) an immaterial change,
- that arises in the normal course of handling by an information system.
- (3) A reference in this Law to something’s being put into a legible form includes a reference to its being restored to the condition in which it was before any encryption or similar process was applied to it.

## **2 Power for Regulations to modify legislation<sup>3</sup>**

- (1) The States may make Regulations amending or extending the interpretation of any expression defined in this Law or defining any expression used in this Law if the States considers it necessary to do so to take into account a change or advancement in technology.
- (2) The States may by Regulations modify the provisions of –
  - (a) any enactment; or
  - (b) any scheme, licence, authorization or approval issued, granted or given by or under any enactment,in such manner as they may think fit for the purpose of authorizing or facilitating the use of electronic communications or electronic storage (instead of other forms of communication or storage) for any purpose mentioned in paragraph (3).
- (3) Those purposes are –
  - (a) the doing of anything which under any such provisions is required to be or may be done by post or other specified means of delivery;
  - (b) the doing of anything which under any such provisions is required to be or may be authorized by a person’s signature or seal, or is required to be delivered as a deed or witnessed;

- (c) the making of any statement or declaration which under any such provisions is required to be made under oath or to be contained in a statutory declaration;
  - (d) the keeping, maintenance or preservation, for the purposes or in pursuance of any such provisions, of any account, record, notice, instrument or other document;
  - (e) the provision, production or publication under any such provisions of any information or other matter;
  - (f) the making of any payment that is required to be or may be made under any such provisions.
- (4) The power to make Regulations under this Article includes, in particular, the power to provide for –
- (a) the electronic form to be taken by any electronic communications or electronic storage the use of which is authorized by the Regulations;
  - (b) the conditions subject to which the use of electronic communications or electronic storage is so authorized;
  - (c) in relation to cases in which any such conditions are not satisfied, for treating anything for the purposes of which the use of such communications or storage is so authorized as not having been done;
  - (d) in connection with anything so authorized, a person to be able to refuse to accept receipt of something in electronic form except in such circumstances as may be specified in or determined under the Regulations;
  - (e) in connection with any use of electronic communications so authorized, intermediaries to be used, or to be capable of being used, the transmission of any data or for establishing the authenticity or integrity of any data;
  - (f) in connection with any use of electronic storage so authorized, persons satisfying such conditions as may be specified in or determined under the Regulations to carry out functions in relation to the storage;
  - (g) in relation to cases in which the use of electronic communications or electronic storage is so authorized, the determination of any of the matters mentioned in paragraph (5), or as to the manner in which they may be proved in legal proceedings;
  - (h) in relation to cases in which fees or charges are or may be imposed in connection with anything for the purposes of which the use of electronic communications or electronic storage is so authorized, different fees or charges to apply where use is made of such communications or storage;
  - (i) in relation to any criminal or other liabilities that may arise (in respect of the making of false or misleading statements or otherwise) in connection with anything for the purposes of which the use of electronic communications or electronic storage is so authorized, corresponding liabilities to arise in corresponding circumstances where use is made of such communications or storage;



- (j) persons to prepare and keep records in connection with any use of electronic communications or electronic storage which is so authorized;
  - (k) the production of the contents of any records kept in accordance with the Regulations;
  - (l) a requirement imposed by virtue of sub-paragraph (j) or (k) to be enforceable at the suit or instance of such person as may be specified in or determined in accordance with the Regulations.
- (5) The matters referred to in paragraph (4)(g) are –
- (a) whether a thing has been done using an electronic communication or electronic storage;
  - (b) the time at which, or date on which, a thing done using any such communication or storage was done;
  - (c) the place where a thing done using such communication or storage was done;
  - (d) the person by whom such a thing was done; and
  - (e) the contents, authenticity or integrity of any electronic data.
- (6) Regulations under this Article may –
- (a) provide for any conditions or requirements imposed by the Regulations to be framed by reference to the directions of such persons as may be specified in or determined in accordance with the Regulations;
  - (b) provide that any such condition or requirement is to be satisfied only where a person so specified or determined is satisfied as to specified matters; and
  - (c) make such incidental, supplemental, consequential and transitional provision as the States think fit,

and the provision that may be made by virtue of sub-paragraph (c) includes provision modifying any enactment or any scheme, licence, authorization or approval issued, granted or given by or under any enactment.

## PART 2

### GENERAL PRINCIPLES

#### **3 Legal recognition**

Information shall not be denied legal effect, validity or enforceability, solely on the grounds that it is in electronic form.

#### **4 Formation of contract**

- (1) In the formation of a contract, unless the parties have otherwise agreed, the offer and the acceptance of the offer may be expressed by means of an electronic communication.
- (2) Paragraph (1) does not apply where the law expressly or impliedly otherwise provides.

#### **5 Time of dispatch of electronic communications**

Unless otherwise agreed between the originator of the electronic communication and its addressee, the dispatch of an electronic communication occurs when it enters an information system outside the control of its originator or a person dispatching the electronic communication on behalf of its originator.

#### **6 Time of receipt of electronic communications**

Unless otherwise agreed between the originator of the electronic communication and its addressee, the time of receipt of an electronic communication is –

- (a) if its addressee has designated an information system to receive the electronic communication, when it enters that information system; and
- (b) in any other case, when it is retrieved by the addressee.

#### **7 Place of dispatch and receipt of electronic communications**

(1) Unless otherwise agreed between the originator of the electronic communication and its addressee, an electronic communication is to be taken –

- (a) to have been dispatched at the place where its originator has the originator's place of business; and
- (b) to have been received at the place where its addressee has the addressee's place of business.

(2) For the purposes of applying paragraph (1) to an electronic communication –

- (a) if its originator or addressee has more than one place of business, and one of those places has a closer relationship to the underlying transaction, it is to be assumed that that place of business is the originator's or addressee's only place of business;
- (b) if its originator or addressee has more than one place of business, but paragraph (a) does not apply, it is to be assumed that the originator's or addressee's principal place of business is the originator's or addressee's only place of business; and
- (c) if its originator or addressee does not have a place of business, it is to be assumed that the originator's or addressee's place of business is –
  - (i) the place where the originator or addressee ordinarily resides, or

- (ii) in the case of a company, its registered or similar address.

## **8 Attribution of electronic communications**

- (1) An electronic communication is that of its originator if it was dispatched –
  - (a) by its originator;
  - (b) by a person who had the authority to act on behalf of its originator in respect of the communication; or
  - (c) by an information system programmed by or on behalf of its originator to operate automatically.
- (2) An addressee of an electronic communication may assume that a particular person was its originator and may act on that assumption if –
  - (a) the addressee properly applied a procedure previously agreed with that person to ascertain whether the communication was from that person and the procedure indicated that it was; or
  - (b) the communication as received by the addressee was the result of the action of a person whose relationship with the particular person or the person's agent enabled the person to gain access to a method used by the particular person to identify the person as the originator of electronic communications.
- (3) Paragraph (2) does not apply –
  - (a) from the time when the addressee –
    - (i) receives notice from the person assumed to be the originator of the electronic communication that the person was not its originator, and
    - (ii) has had a reasonable time to act on that information;
  - (b) in the case of paragraph (2)(b), at any time when the addressee knew or ought to have known had the person exercised reasonable care or used an agreed procedure that the person assumed to be the originator of the electronic communication was not its originator; or
  - (c) if in the circumstances it would be unconscionable for the addressee to regard the person assumed to be the originator of the electronic communication to be its originator and to act on that assumption.
- (4) Where paragraph (1) or (2) applies the addressee is entitled to assume that the electronic communication received was what its originator intended to dispatch, and to act on that assumption.
- (5) Paragraph (4) does not apply if the addressee knew or ought to have known had the addressee exercised reasonable care or used an agreed procedure that the transmission of the electronic communication resulted in the communication as received being different from the communication as dispatched.
- (6) An addressee is entitled to assume that each electronic communication the addressee receives is a separate communication unless the addressee knew or could have known had he or she exercised reasonable care or used an

agreed procedure that an electronic communication the addressee has received is a duplicate of one already received.

- (7) Nothing in this Article affects the law of agency or the law on the formation of contracts.

## **9 Admissibility in evidence of information in electronic form**

- (1) In legal proceedings nothing in the application of the rules of evidence shall be taken to apply so as to deny the admissibility into evidence of information that is in electronic form –
- (a) solely on the grounds that it is in electronic form; or
  - (b) if it is the best evidence that the person adducing it could reasonably be expected to obtain, solely on the grounds that it is not in its original form or that it is not an original.
- (2) Evidence in electronic form shall be given due evidential weight by the court.
- (3) When assessing the evidential value of information in electronic form the court may have regard to any relevant information or circumstances including –
- (a) the manner in which the information was generated and stored;
  - (b) the reliability of the manner in which its integrity was maintained; and
  - (c) the manner in which its originator was identified or the information was signed or otherwise accredited or authenticated.

## **PART 3**

### **REQUIREMENTS UNDER ENACTMENTS**

## **10 Exemptions – Part 3**

- (1) The Minister may by Order provide that this Part, or a specified provision of this Part –
- (a) does not apply to a specified enactment or to a specified class of enactments; or
  - (b) does not apply –
    - (i) unless a specified condition or requirement is complied with, or
    - (ii) in specified circumstances.
- (2) Except to any extent provided by Rules of Court this Part does not apply to the practice and procedure of a court or tribunal.

- (3) In this Article –
- “practice and procedure of a court or tribunal” includes all matters in relation to which Rules of Court may be made;
- “specified” means specified in the Order.

## 11 Giving information in writing

- (1) A person required or permitted by an enactment to give information in writing may give that information by means of an electronic communication –
- (a) in every case, if it is reasonable to expect that the information will be readily accessible so as to be useable for subsequent reference; and
  - (b) in the case of information that is required or permitted to be given to a States entity or to a person acting on behalf of a States entity, only if –
    - (i) the entity consents to the information being given by way of an electronic communication, and
    - (ii) any information technology requirements specified by the entity in relation to the giving of the information are met.
  - (c) <sup>4</sup>
- (2) Paragraph (1) applies whether the expression used in the enactment is give, dispatch, send, serve, or some other similar expression.
- (3) For the purposes of paragraph (1) to give information includes but is not limited to the following –
- (a) to make an application;
  - (b) to make or lodge a claim;
  - (c) to give, dispatch, send or serve a notice;
  - (d) to lodge a return;
  - (e) to make a request;
  - (f) to make a declaration;
  - (g) to lodge or issue a certificate;
  - (h) to make, vary or cancel an election;
  - (i) to lodge an objection;
  - (j) to give a statement of reasons.<sup>5</sup>
- (4) Paragraph (1) does not affect the operation of any other enactment that requires or permits information to be given in accordance with particular information technology requirements on a particular kind of data storage device or by means of a particular kind of electronic communication.

## 12 Requirement for signature

- (1) A person required by an enactment to provide a signature is to be taken to have met that requirement in relation to an electronic communication –
  - (a) in every case, if a method is used to identify the person and to indicate the person's approval of the information communicated; and
  - (b)
  - (c) in the case of a signature that is required to be provided to a States entity or to a person acting on behalf of a States entity, only if –
    - (i) the entity consents to the signature being provided by way of an electronic communication, and
    - (ii) any information technology requirements specified by the entity in relation to the provision of the signature are met.
  - (d) <sup>6</sup>
- (2) Paragraph (1) does not affect the operation of any other enactment that requires –
  - (a) an electronic communication to contain an electronic signature (however described);
  - (b) an electronic communication to contain a unique identification in an electronic form; or
  - (c) a particular method to be used in relation to an electronic communication to identify its originator and to indicate the originator's approval of the information communicated.
- (3) A signature, seal, attestation or notarisation is not to be denied legal effect, validity or enforceability only because it is in electronic form.<sup>7</sup>

## 13 Producing a document

- (1) A person required or permitted by an enactment to produce a document may produce an electronic form of the document –
  - (a) in every case, if the method used to generate the electronic form of the document assures the integrity of the information contained in the document;
  - (b) in every case, if it is reasonable to expect that the information contained in the electronic form of the document will be readily accessible so as to be useable for subsequent reference; and
  - (c) in the case of a document that is required or permitted to be produced to a States entity or to a person acting on behalf of a States entity, only if –
    - (i) the entity consents to the document being produced by way of an electronic communication, and
    - (ii) any information technology requirements specified by the entity in relation to the production of the document are met.

(d) <sup>8</sup>

- (2) Paragraph (1) does not affect the operation of any other enactment that requires or permits a document to be produced in electronic form –
- (a) in accordance with particular information technology requirements;
  - (b) on a particular kind of data storage device; or
  - (c) by means of a particular kind of electronic communication.

#### **14 Recording of information**

A person required by an enactment to record information in writing may record the information in electronic form –

- (a) in every case, if the information will be readily accessible so as to be useable for subsequent reference; and
- (b) where the Minister by Order requires that the information is to be recorded in electronic form on a particular kind of data storage device, if that requirement is met.

#### **15 Inspection of information**

A person who is required by an enactment to make a document available for inspection (whether to the public or to a particular person or group of people) and who keeps the document or a copy of it in electronic form meets that requirement if –

- (a) the method used to keep the document in electronic form assures the integrity of the information contained in the document; and
- (b) the person makes a copy of the document available for inspection in a visible and legible form.

#### **16 Retention of document**

A person required by an enactment to retain a document meets that requirement by retaining an electronic form of the document –

- (a) in every case, if the method used to generate the electronic form of the document assures the maintenance of the integrity of the information contained in the document;
- (b) in every case, if the electronic form of the document will be readily accessible so as to be useable for subsequent reference; and
- (c) where the Minister by Order requires that the electronic form of the document is to be retained on a particular kind of data storage device, if that requirement is met.

#### **17 Retention of information contained in electronic communication**

A person required by an enactment to retain for a particular period information that was the subject of an electronic communication meets that requirement by

retaining or causing another person to retain the information in an electronic form –

- (a) in every case, if it is reasonable to expect that the information will be readily accessible so as to be useable for subsequent reference;
- (b) in every case, if the method used to retain the information assures the maintenance of the integrity of the information;
- (c) in every case, if throughout the period in which it is maintained in electronic form, the person also retains (or causes the other person to retain) in electronic form any additional information the person has that identifies –
  - (i) the originator of the electronic communication,
  - (ii) its addressee,
  - (iii) its time of dispatch, and
  - (iv) its time of receipt;
- (d) in every case, if the method used to retain the additional information assures the maintenance of the integrity of the information and it is reasonable to expect that this additional information will be readily accessible so as to be useable for subsequent reference; and
- (e) where the Minister by Order requires that the information and additional information are to be retained in electronic form on a particular kind of data storage device, if that requirement is met throughout that period.

## **18 Copyright**

- (1) The generation of an electronic form of a document for the purposes of this Part does not constitute an infringement of the copyright in a work or other subject matter embodied in the document.
- (2) The production, by means of an electronic communication, of an electronic form of a document for the purposes of this Part does not constitute an infringement of the copyright in a work or other subject matter embodied in the document.

## **PART 4**

### **SERVICE PROVIDERS**

## **19 Protection of service providers from criminal liability**

- (1) If a service provider is charged with an offence arising out of the handling of an electronic communication it shall be a defence, in addition to any other defence the service provider may have, for the service provider to show –
  - (a) that the service provider did not know and had no reasonable cause to suspect from the information known to him or her that the



handling of the communication would (but for this Article) constitute or give rise to the offence; or

- (b) that as soon as was reasonably practicable after the service provider knew or had reasonable cause to suspect that the handling of the communication would (but for this Article) give rise to the offence –
    - (i) the service provider took such steps as were reasonable to prevent the handling by means of the information system the service provider owns or operates, and
    - (ii) the service provider notified a police officer of any relevant facts in the service provider's possession.
- (2) A service provider is not subject to civil liability for action the service provider takes in good faith pursuant to paragraph (1)(b).

## **20 Protection of service providers from civil liability**

- (1) A service provider is not subject to civil liability arising out of the handling of an electronic communication if –
- (a) the service provider did not know and had no reasonable cause to suspect from the information known to him or her that the handling of the communication would (but for this Article) give rise to that liability; or
  - (b) as soon as was reasonably practicable after the service provider knew or had reasonable cause to suspect that the handling of the communication would (but for this Article) give rise to that liability, the service provider took such steps as were reasonable to prevent the handling by means of the information system the service provider owns or operates.
- (2) A service provider is not subject to civil liability for action the service provider takes in good faith pursuant to paragraph (1)(b).

## **21 Obligations of service providers**

- (1) A service provider is not required to monitor an electronic communication handled by means of an information system the service provider owns or operates to ascertain whether its handling by the service provider would (but for Article 19 or 20) give rise to an offence or civil liability.
- (2) Except as may be necessary to comply with a provision of this Part nothing in this Part relieves a service provider from –
- (a) an obligation to comply with an order or direction of a court or other competent authority;
  - (b) an obligation under any other enactment; or
  - (c) a contractual obligation.

## PART 5

### RULES AND ORDERS

#### 22 Rules of Court

- (1) Rules of Court may make provisions necessary or expedient for the purposes of this Law.
- (2) Rules of Court made for the purposes of Article 9 may, in particular, make provision in respect of –
  - (a) the manner in which information in electronic form is to be provided to a court, which may include the use of an information system; and
  - (b) the provision in hard form or in a legible and visible form of information provided in electronic form.
- (3) The power to make Rules of Court under Article 13 of the [Royal Court \(Jersey\) Law 1948](#) shall include a power to make Rules under this Article.

#### 23 Orders

- (1) The Minister may by Order prescribe anything which may be prescribed under this Law.
- (2) The Minister shall not make an Order for a purpose of Part 3 in respect of an enactment without the approval of the relevant Minister.
- (3) The Minister shall make an Order for a purpose of Part 3 in respect of an enactment if requested to do so by the relevant Minister.
- (4) An Order made by the Minister under this Law –
  - (a) may make different provision for different cases; and
  - (b) may contain incidental, supplemental, consequential and transitional provision.
- (5) <sup>9</sup>
- (6) In this Article “relevant Minister”, in respect of an enactment, means the Minister with responsibility for the administration of the enactment.

## PART 6

### CITATION

#### 24 Citation

This Law may be cited as the Electronic Communications (Jersey) Law 2000.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	Project No (where applicable)
Electronic Communications (Jersey) Law 2000	<a href="#">L.34/2000</a>	1 January 2001 ( <a href="#">R&amp;O.136/2000</a> )	<a href="#">P.98/2000</a>
Employment of States of Jersey Employees (Consequential, Amendment, Repeal, Transitional and Savings Provisions) (Jersey) Regulations 2005	<a href="#">R&amp;O.155/2005</a>	9 December 2005	<a href="#">P.243/2005</a>
Electronic Communications (Amendment) (Jersey) Law 2007	<a href="#">L.15/2007</a>	17 June 2007	<a href="#">P.111/2006</a>
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	<a href="#">R&amp;O.158/2015</a>	1 January 2016	<a href="#">P.46/2015</a> (re-issue)
Data Protection (Jersey) Law 2018	<a href="#">L.3/2018</a>	25 May 2018	<a href="#">P.116/2017</a>
States of Jersey (Transfer of Responsibilities and Functions) (Chief Minister to Economic Development, Tourism, Sport and Culture) Order 2019	<a href="#">R&amp;O.74/2019</a>	22 August 2019	
Electronic Communications (Amendment of Law) (Jersey) Regulations 2019	<a href="#">R&amp;O.103/2019</a>	9 October 2019	<a href="#">P.86/2019</a>
Legislation (Jersey) Law 2021	<a href="#">L.8/2021</a>	28 September 2021 ( <a href="#">R&amp;O.112/2021</a> )	<a href="#">P.26/2021</a>

Projects available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

### Table of Renumbered Provisions

Original	Current
1 (4),(5),(6)	spent, omitted from this revised edition

### Table of Endnote References

- <sup>1</sup> *The functions of the Economic Development Committee were transferred to the Minister for Economic Development on the 9th December 2005 by the States of Jersey (Transfer of Functions from Committees to Ministers) (Jersey) Regulations 2005 chapter 16.800.30.*
- <sup>2</sup> *Article 1(1)* amended by R&O.155/2005, R&O.158/2015, R&O.74/2019
- <sup>3</sup> *Article 2* substituted by L.3/2018
- <sup>4</sup> *Article 11(1)* amended by L.15/2007, R&O.103/2019
- <sup>5</sup> *Article 11(3)* amended by R&O.103/2019
- <sup>6</sup> *Article 12(1)* amended by L.15/2007, R&O.103/2019
- <sup>7</sup> *Article 12(3)* inserted by R&O.103/2019
- <sup>8</sup> *Article 13(1)* amended by L.15/2007, R&O.103/2019
- <sup>9</sup> *Article 23(5)* deleted by L.8/2021