

The Parliament of New Zealand Enacts as Follows

[Preamble]

1. Title

This Act is the Electronic Transactions Act 2000.

2. Commencement

- (1) This Act (except **sections 14 (3) and 35**) comes into force on a date to be appointed by the Governor-General by Order in Council.
- (2) **Sections 14 (3) and 35** come into force on the day after the date on which the Act receives the Royal assent.

Part 1: Preliminary

[Preliminary]

3. Purpose

The purpose of this Act is to facilitate the use of electronic technology by-

- (a) reducing uncertainty regarding-
 - (i) the legal effect of information that is in electronic form or that is communicated by electronic means; and
 - (ii) the time and place of dispatch and receipt of electronic communications; and
- (b) providing that certain paper-based legal requirements may be met by using electronic technology that is functionally equivalent to those legal requirements.

4. Overview

In this Act, -

- (a) Matters concerning the legal effect of information that is in electronic form or that is communicated by electronic means are set out in **section 8**;
- (b) default rules about the time and place of dispatch and receipt of electronic communications are set out in **sections 9 to 13**;
- (c) key provisions concerning the use of electronic technology to meet certain legal requirements are set out in **sections 14 to 17**;
- (d) provisions that specify certain legal requirements that may be met by using electronic technology, and how they may be met, are set out in **sections 18 to 32**.

5. Interpretation

In this Act, unless the context otherwise requires,-

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

electronic includes electrical, digital, magnetic, optical, electromagnetic, biometric and photonic

electronic communication means a communication by electronic means

information includes information (whether in its original form or otherwise) that is in the form of a document, a signature, a seal, data, text, images, sound, or speech

information system has the meaning set out in [section 10 \(2\)](#)

legal requirement has the meaning set out in [section 15 \(2\)](#)

transaction includes-

- (a) a transaction of a non-commercial nature:
- (b) a single communication:
- (c) the outcome of multiple related communications.

6. Further provision relating to interpretation

In interpreting this Act, reference may be made to-

- (a) the Model Law on Electronic Commerce adopted by the United Nations Commission on International Trade Law on 16 December 1996:
- (b) any document that relates to the Model Law that originates from the United Nations Commission on International Trade Law, or its working group for the preparation of the Model Law.

7. Act binds the Crown

This Act binds the Crown.

Part 2: Improving Certainty in Relation to Electronic Information and Electronic Communications

Validity

8. Validity of information

To avoid doubt, information is not denied legal effect solely because it is-

- (a) In electronic form or is communicated by electronic means:
- (b) Referred to in an electronic communication that is intended to give rise to that legal effect.

Default Rules about Dispatch and Receipt of Electronic Communications

9. When default rules in sections [10](#) to [13](#) apply

Sections **10** to **13** apply to an electronic communication except to the extent that-

- (a) the parties to the communication otherwise agree;
- (b) an enactment provides otherwise.

10. Time of dispatch

- (1) An electronic communication is taken to be dispatched at the time the electronic communication first enters an information system outside the control of the originator.
- (2) For the purposes of **sections 10 and 11**, **information system** means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications.

11. Time of receipt

An electronic communications is taken to be received,-

- (a) in the case of an addressee who has designated an information system for the purpose of receiving electronic communications, at the time the electronic communication enters that information system; or
- (b) in any other case, at the time the electronic communication comes to the attention of the addressee.

12. Place of dispatch

An electronic communication is taken to be dispatched from-

- (a) the originator's place of business; or
- (b) if the originator has more than 1 place of business,-
 - (i) the place of business that has the closest relationship with the underlying transaction; or
 - (ii) if there is no place of business to which **subparagraph (i)** applies, the originator's principal place of business; or
- (c) in the case of an originator who does not have a place of business, the originator's ordinary place of residence.

13. Place of receipt

An electronic communication is taken to be received at-

- (a) the addressee's place of business; or

- (b) if the addressee has more than 1 place of business,-
 - (i) the place of business that has the closest relationship with the underlying transaction; or
 - (ii) if there is no place of business to which **subparagraph (i)** applies, the addressee's principal place of business; or
- (c) in the case of an addressee who does not have a place of business, the addressee's ordinary place of residence.

Part 3: Application of Legal Requirements to Electronic Transactions

Subpart 1 - Preliminary

14. When Part applies

- (1) Subject to **subsection (2)**, this Part applies to every enactment that is part of the law of New Zealand and that is passed either before or after the commencement of this Act.
- (2) This Part does not apply to-
 - (a) An enactment that requires information to be recorded, given, produced, or retained, or a signature to be given, or a signature or seal to be witnessed-
 - (i) in accordance with particular electronic technology requirements; or
 - (ii) on a particular kind of data storage device; or
 - (iii) by means of a particular kind of electronic communications:
 - (b) the enactments specified in **[Part 1 of the Schedule](#)**;
 - (c) the provisions of enactments specified in **column 2 of [Part 2 of the Schedule](#)**;
 - (d) the provisions of enactments that are described in **[Part 3 of the Schedule](#)**;
 - (e) the provisions of the enactments that are described in **[Part 4 of the Schedule](#)** except to the extent that rules of a court, or guidelines issued with the authority of a court or tribunal, specified in that Part of the Schedule provide for the use of electronic technology in accordance with this Part.
- (3) The Governor-General may, by Order in Council, amend the Schedule or repeal the Schedule and substitute a new schedule.

15. Satisfaction of legal requirements through use of electronic technology

- (1) A legal requirement can be met using electronic technology if-
 - (a) the provisions in **[Subpart 2](#)** are satisfied; and
 - (b) any conditions prescribed by any regulations made under **section 35** are satisfied.
- (2) For the purpose of this Part, **legal requirement-**
 - (a) means a provision-

- (i) in an enactment to which this Part applies; and
 - (ii) of a kind that is referred to in [Subpart 2](#); and
- (b) includes a provision that imposes an obligation or that provides consequences depending on whether or not the provision is complied with.

16. Consent to use of electronic technology

- (1) Nothing in this Part requires a person to use, provide, or accept information in an electronic form without that person's consent.
- (a) For the purposes of this Part, -
 - (b) a person may consent to use, provide, or accept information in an electronic form subject to conditions regarding the form of the information or the means by which the information is produced, sent, received, processed, stored, or displayed:
- (2) consent may be inferred from a person's conduct.
- (3) **Subsections (1) and (2)(a)** are for the avoidance of doubt.

17. When integrity of information maintained

For the purposes of this Part, the integrity of information is maintained only if the information has remained complete and unaltered, other than the addition of any endorsement, or any immaterial change, that arises in the normal course of communication, storage, or display.

Subpart 2 - Legal Requirements

Writing

18. Requirement that information be in writing

A legal requirement that information be in writing is met by information that is in electronic form if the information is readily accessible so as to be usable for subsequent reference.

19. Requirement to record information in writing

A legal requirement that information be recorded in writing is met by recording the information in electronic form if the information is readily accessible so as to be usable for subsequent reference.

20. Requirement to give information in writing

- (1) A legal requirement to give information in writing is met by giving the information in electronic form, whether by means of an electronic communication or otherwise, if -
- (a) the information is readily accessible so as to be usable for subsequent reference; and
 - (b) the person to whom the information is required to be given consents to the

information being given in electronic form and by means of an electronic communication, if applicable.

- (2) If **subsection(1)** applies, a legal requirement to provide multiple copies of the information to the same person at the same time is met by providing a single electronic version of the information.
- (3) **Subsection (1)** applies to a legal requirement to give information even if that information is required to be given in a specified manner, for example by filing, sending, serving, delivering, lodging, or posting that information.
- (4) A legal requirement to give information includes, for example, -
 - (a) making an application:
 - (b) making or lodging a claim:
 - (c) giving, sending, or serving a notification:
 - (d) lodging a return:
 - (e) making a request:
 - (f) making a declaration:
 - (g) lodging or issuing a certificate:
 - (h) making, varying, or cancelling an election:
 - (i) lodging an objection:
 - (j) giving a statement of reasons.

21. Additional requirements relating to information in writing

To avoid doubt, a legal requirement relating to the form or layout of, or the materials to be used for writing, information, or any similar requirement, need not be complied with in order to meet a legal requirement to which any of **sections 18 to 20** apply.

Signatures

22. Requirement for signature

- (1) Subject to **subsection (2)**, a legal requirement for a signature other than a witness' signature is met by means of an electronic signature if the electronic signature -
 - (a) adequately identifies the signatory and adequately indicates the signatory's approval of the information to which the signature relates; and
 - (b) is as reliable as is appropriate given the purpose for which, and the circumstances in which, the signature is required.
- (2) A legal requirement for a signature is not met by means of an electronic signature unless, in the case of a signature on information that is required to be given to a person, that person consents to receiving the electronic signature.

23. Requirement that signature or seal be witnessed

- (1) Subject to **subsection (2)**, a legal requirement for a signature or a seal to be witnessed is met by means of a witness' electronic signature, if-
 - (a) in the case of the witnessing of a signature, the signature is an electronic signature that complies with **section 22**; and
 - (b) in the case of the witnessing of a signature or a seal, the electronic

signature of the witness -

- (i) adequately identifies the witness and adequately indicates that the signature or seal has been witnessed; and
 - (ii) is as reliable as is appropriate given the purpose for which, and the circumstances in which, the witness' signature is required.
- (2) A legal requirement for a signature or seal to be witnessed is not met by means of a witness' electronic signature unless, in the case of a witness' signature on information that is required to be given to a person, that person consents to receiving the witness' electronic signature.

24. Presumption about reliability of electronic signatures

- (1) For the purposes of **sections 22 and 23**, it is presumed that an electronic signature is as reliable as is appropriate if -
 - (a) the means of creating the electronic signature is linked to the signatory and to no other person; and
 - (b) the means of creating the electronic signature was under the control of the signatory and of no other person; and
 - (c) any alteration to the electronic signature made after the time of signing is detectable; and
 - (d) where the purpose of the legal requirement for a signature is to provide assurance as to the integrity of the information to which it relates, any alteration made to that information after the time of signing is detectable.
- (2) **Subsection (1)** does not prevent any person from proving on other grounds or by other means that an electronic signature-
 - (a) is as reliable as is appropriate; or
 - (b) is not as reliable as is appropriate.

Retention

25. Requirement to retain document or information in paper form

- (1) A legal requirement to retain information that is in paper or other non-electronic form is met by retaining an electronic form of the information if-
 - (a) the electronic form provides a reliable means of assuring the maintenance of the integrity of the information; and
 - (b) the information is readily accessible so as to be usable for subsequent reference.
- (2) **Subsection (1)** applies to information that is a public record within the meaning of the Archives Act 1957 only if the Chief Archivist has approved the retention of that information in electronic form.
- (3) To avoid doubt, if information is retained in electronic form in accordance with **subsection (1)**, the paper or other non-electronic form of that information need not be retained.

26. Requirement to retain information in electronic form

Subject to **section 27**, a legal requirement to retain information that is in electronic form is met by retaining the information-

- (a) in paper or other non-electronic form if the form provides a reliable means of assuring the maintenance of the integrity of the information; or
- (b) in electronic form if;
 - (i) the electronic form provides a reliable means of assuring the maintenance of the integrity of the information; and
 - (ii) the information is readily accessible so as to be usable for subsequent reference.

27. Extra conditions for electronic communications

In addition to the conditions specified in **section 26**, if a person is required to retain information that is contained in an electronic communication,-

- (a) the person must also retain such information obtained by that person as enables the identification of-
 - (i) the origin of the electronic communication; and
 - (ii) the destination of the electronic communication; and
 - (iii) the time when the electronic communication was sent and the time when it was received; and
- (b) the information referred to in **paragraph (a)** must be readily accessible so as to be usable for subsequent reference.

Provision and production of, and access to, information

28. Requirement to provide or produce information in paper form

A legal requirement to provide or produce information that is in paper or other non-electronic form is met by providing or producing the information in electronic form, whether by means of an electronic communication or otherwise, if

- (a) the form and means of the provision or production of the information reliably assures the maintenance of the integrity of the information, given the purpose for which, and the circumstances in which, the information is required to be provided or produced; and
- (b) the information is readily accessible so as to be usable for subsequent reference; and
- (c) the person to whom the information is required to be provided or produced consents to the information being provided or produced in an electronic form and, if applicable, by means of an electronic communication.

29. Requirement to provide or produce information in electronic form

A legal requirement to provide or produce information that is in electronic form is met by providing or producing the information-

- (a) in paper or other non-electronic form; but, if the maintenance of the integrity of

the information cannot be assured, the person who must provide or produce the information must-

- (i) notify every person to whom the information is required to be provided or produced of that fact; and
 - (ii) if requested to do so, provide or produce the information in electronic form in accordance with **paragraph (b)**; or
- (b) in electronic form, whether by means of an electronic communication or otherwise, if-
- (i) the form and means of the provision or production of the information reliably assures the maintenance of the integrity of the information, given the purpose for which, and the circumstances in which, the information is required to be provided or produced; and
 - (ii) the information is readily accessible so as to be usable for subsequent reference; and
 - (iii) the person to whom the information is required to be provided or produced consents to the provision or production of the information in an electronic form and, if applicable, by means of an electronic communication.

30. Requirement to provide access to information in paper form

A legal requirement to provide access to information that is in paper or other non-electronic form is met by providing access to the information in electronic form if-

- (a) the form and means of access to the information reliably assures the maintenance of the integrity of the information, given the purpose for which, and the circumstances in which, access to the information is required to be provided; and
- (b) the person to whom access is required to be provided consents to accessing the information in that electronic form.

31. Requirement to provide access to information in electronic form

A legal requirement to provide access to information that is in electronic form is met by providing access to the information-

- (a) in paper or other non-electronic form; but, if the maintenance of the integrity of the information cannot be assured, the person who must provide access to the information must-
 - (i) notify every person to whom access is required to be provided of that fact; and
 - (ii) if requested to do so, provide access to the information in electronic form in accordance with **paragraph (b)**; or
- (b) in electronic form, whether by means of an electronic communication or otherwise, if-
 - (i) the form and means of access to the information reliably assures the maintenance of the integrity of the information, given the purpose for which, and the circumstances in which, access to the information is

- required to be provided; and
- (ii) the person to whom access is required to be provided consents to accessing the information in that electronic form.

Originals

32. Originals

A legal requirement to compare a document with an original document may be met by comparing that document with an electronic form of the original document if the electronic form reliably assures the maintenance of the integrity of the document.

Subpart 3 - Miscellaneous

33. Content requirements

Nothing in this Part affects any legal requirement to the extent that the requirement relates to the content of information.

34. Copyright

The copyright in a work is not infringed by any of the following acts if they are carried out for the purposes of meeting a legal requirement by electronic means:

- (a) the generation of an electronic form of a document;
- (b) the production of information by means of an electronic communication.

35. Regulations

The Governor-General may, by Order in Council, make regulations prescribing conditions that must be complied with in order to meet a legal requirement specified in those regulations by electronic means.

36. Related amendment to Interpretation Act 1999

Section 29 of the Interpretation Act 1999 is amended by repealing the definition of **writing**, and substituting the following definition:

"writing means representing or reproducing words, figures, or symbols in a visible and tangible form and medium (for example, in print)".