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BELIZE

ELECTRONIC TRANSACTIONS ACT CHAPTER 290:01

REVISED EDITION 2003

SHOWING THE SUBSTANTIVE LAWS AS AT 31ST MAY, 2003

This is a revised edition of the Substantive Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2000.

This edition contains a consolidation of the following laws- Page

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ELECTRONIC TRANSACTIONS ACT 5

Amendments in force as at 31st May, 2003.

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CHAPTER 290:01

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CHAPTER 290:01

ELECTRONIC TRANSACTIONS No. 8 of 2003.

[31st January, 2003]

1. This Act may be cited as the Electronic Transactions Act. Short title.
2. This Act shall come into force on a day to be appointed by the Attorney Commencement General by Order published in the Gazette.
 1. The objects of this Act are: Objects.
 1. to eliminate legal barriers to the effective use of electronic communications in transactions;
 2. to promote the harmonization of legal rules on electronic transactions across national boundaries;
 3. to facilitate the appropriate use of electronic transactions;
 4. to promote business and community confidence in electronic transactions; and
 5. to enable business and the community to use electronic communications in their transactions with government.
 3. (1) In this Act, unless the context otherwise requires: Definitions.

“electronic” includes created, recorded, transmitted or stored in digital or other intangible form by electronic, magnetic, optical or by any other means that has

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Crown to be bound.

Nondiscrimination against electronic information.

capabilities for creation, recording, transmission or storage similar to those means;

“electronic signature” means information in electronic form that a person has created or adopted in order to sign a document and that is in, attached to or associated with a document;

“public body” includes:

(a)

- a Minister, ministry or department of government;
- (b) courts;
- (c) bodies exercising statutory authority, of legislative, executive or judicial nature;
- (d) local public authorities;

“information system” means a system for generating, sending, receiving, storing or otherwise processing electronic communications; “rule of law” means the common law, legislation, and subordinate legislation.

1. This Act binds the Crown.
2. (1) Information shall not be denied legal effect, validity or enforcement solely on the ground that it is in electronic form.

(2) In sections 7, 8, 9, 10 and 11:

(a) where rules of law require information to be in writing, given, signed, original, or retained, the requirement is met if the section is complied with;

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- (b) where rules of law provide consequences where the information is not in writing, given, signed, original, or retained, the consequences are avoided if the section is complied with; and
- (c) where rules of law provide consequences if the information is in writing, given, signed, original or retained, the consequences are achieved if the section is complied with.

7. (1) A rule of law that requires information to be in writing or to be Writing given in writing is satisfied by information in electronic form if the information is requirements. accessible so as to be usable for subsequent reference.

(2) In subsection (1), giving information includes, but is not limited to, the following:

- (a) making an application;
- (b) making, filing or lodging a claim;
- (c) giving, sending or serving a notification;
- (d) filing or lodging a return;
- (e) making a request;
- (f) making a declaration;

- (g) filing, lodging or issuing a certificate;
- (h) making, varying or cancelling an election;

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Prescribed forms.

Signature requirements.

Requirement to produce an original document.

- (i) filing or lodging an objection;
- (j) giving a statement of reasons.

(3) Information in electronic form is not given unless the information is capable of being retained by the person to whom it is given.

8. A rule of law that requires a person to provide information in a prescribed non-electronic form to another person is satisfied by the provision of the information in an electronic form that is:

- (a) organized in the same or substantially the same way as the prescribed non-electronic form;
- (b) accessible to the other person so as to be usable for subsequent reference; and
- (c) capable of being retained by the other person.

9. (1) If a rule of law requires the signature of a person, that requirement is met by an electronic signature.

(2) Parties may agree to use a particular method of electronic signature, unless otherwise provided by law.

10. A rule of law that requires a person to produce, examine or keep an original document is satisfied if the person produces, examines or retains the document in electronic form, if

- (a) having regard to all the relevant circumstances, the method of generating the electronic form of the document provided a reliable means of assuring the maintenance of the integrity of the information contained in the document; and

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(b) in a case where an original document is to be given to a person, the document given to the person in electronic form is accessible so as to be usable for subsequent reference and capable of being retained by the person.

11. A rule of law that requires a person to keep information either that is in Keeping written writing or that is in electronic form, is satisfied by keeping the information in documents. electronic form, if :

- (a) having regard to all the relevant circumstances when the electronic form of the document was generated, the method of generating the electronic form of the document provided a reliable means of assuring the maintenance of the integrity of the information contained in the document; and
- (b) when the electronic form of the document was generated, the information contained in the electronic form of the document is accessible so as to be usable for subsequent reference to any person entitled to have access to the information or to require its production.

12. For the purposes of sections 10 and 11, the integrity of information in a Integrity of document is maintained if, and only if, the information has remained complete ^{information.} and unaltered, apart from:

- (a) the addition of any endorsement; or
- (b) any immaterial change,

which arises in the normal course of communication, storage or display.

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Recognition of foreign electronic documents and signatures.

Powers of public bodies.

1. In determining whether or to what extent information in electronic form is legally effective, no regard shall be had to the location where the information was created or used, or to the place of business of its creator.
 2. (1) If a public body has power to create, collect, receive, store, transfer, distribute, publish, issue or otherwise deal with information and documents, it has the power to do so electronically.
- (2) Subsection (1) is subject to any rule of law that expressly prohibits the use of electronic means or expressly requires them to be used in specified ways.
 - (3)

For the purposes of subsection (2), a reference to writing or signature does not in itself constitute an express prohibition of the use of electronic means.

- (4) Where a public body consents to receive any information in electronic form, it may specify:
- (a) the manner and format in which the information shall be communicated to it;
 - (b) the type or method of electronic signature required, if any;
 - (c) control processes and procedures to ensure integrity, security and confidentiality of the information;
 - (d) any other attributes for the information that are currently specified for corresponding information on paper.

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- (5) The requirements of subsections 7(1) and (3) and section 8 also apply to information described in subsection (4).
- (6) A public body may make or receive payment in electronic form by any manner specified by the public body and approved by the Minister of Finance.

15. This Act does not apply to: Exclusions.

- (a) the creation or transfer of interests in real property;
- (b) negotiable instruments;
- (c) documents of title;
- (d) wills and trusts created by will; and
- (e) any class of documents, transactions or rules of law excluded by regulation under this Act.

16. (1) Nothing in this Act limits the operation of any other rule of law Certain other

that expressly authorizes, prohibits or regulates the use of information in electronic laws not affected.

form, including a method of electronic signature.

- (2) Nothing in this Act limits the operation of any other rule of law requiring information to be posted or displayed in a specified manner or requiring any information to be transmitted by a specified method.

- (3) A reference to writing or signature does not in itself constitute a prohibition for the purpose of subsection (1) or a legal requirement for the purpose of subsection (2).

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Consent. 17. (1) Nothing in this Act requires a person to use, provide or accept information in electronic form without consent, but a person's consent to do so may be inferred from the person's conduct.

- (2) Despite subsection (1), the consent of a public body to accept information in electronic form may not be inferred from its conduct but must be expressed by communication accessible to the public or to those most likely to communicate with it for particular purposes.
- (3) Nothing in this Act authorizes a public body to require any person to use, provide or accept information in electronic form without consent.

Contracts. 18. (1) Unless the parties agree otherwise, an offer, the acceptance of an offer or any other matter that is material to the formation or operation of a contract may be expressed:

- (a) by means of information in electronic form; or
- (b) by an act that is intended to result in electronic communication, such as touching or clicking on an appropriate icon or other place on a computer screen, or by speaking.

(2) A contract is not invalid or unenforceable by reason only of being in electronic form.

Automatic 19. A contract may be formed by the interaction of computer programs contracts. or other electronic means used to initiate an act or to respond to electronic information, in whole or in part, without review by an individual at the time of the response or act.

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20. (1) An electronic transaction between an individual and another person's automated source of information has no legal effect if :

- (a) the individual makes a material error in electronic information or an electronic document used in the transaction;
- (b)

the automated source of information does not give the individual an opportunity to prevent or correct the error;

- (c) on becoming aware of the error, the individual promptly notifies the other person; and
 - (d) in a case where consideration is received as a result of the error, the individual, returns or destroys the consideration in accordance with the other person's instructions or, if there are no instructions, deals with the consideration in a reasonable manner, and does not benefit materially by receiving the consideration.
- (2) This section does not limit the operation of any other rule of law relating to mistake.
1. As between the originator and the addressee of a communication in electronic form, a declaration of will or other statement shall not be denied legal effect, validity or enforceability solely on the grounds that it is in electronic form.
 2. (1) An electronic communication is sent when it enters an information system outside the sender's control or, if the sender and the addressee use the same information system, when it becomes capable of being retrieved and processed by the addressee.

Mistakes in partly automated transactions.

Expressions of

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Time and place of sending and receiving electronic communications.

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- (2) An electronic communication is presumed to be received by the addressee:
- (a) if the addressee has designated or uses an information system for the purpose of receiving communications of the type sent, when it enters that information system and becomes capable of being retrieved and processed by the addressee; or
 - (b) if the addressee has not designated or does not use an information system for the purpose of receiving communications of the type sent, or if the addressee has designated or used such a system but the communication has been sent to another system, when the addressee becomes aware of the communication in the addressee's information system and it becomes capable of being retrieved and processed by the addressee.
- (3) Subsections (1) and (2) apply unless the parties agree otherwise.
- (4) An electronic communication is deemed to be sent from the sender's place of business and received at the addressee's place of business.
- (5) If the sender or the addressee has more than one place of business, the place of business for

the purposes of subsection (4) is the one with the closest relationship to the underlying transaction to which the electronic communication relates or, if there is no underlying transaction, the person's principal place of business.

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(6) If the sender or addressee does not have a place of business, the person's place of habitual residence is deemed to be the place of business for the purposes of subsection (4).

1. An electronic communication is that of the person who sends it, if it is sent directly by the person or by an information system programmed by or on behalf of the person to operate automatically.
 1. (1) A person using electronic communications to sell goods or services to consumers shall provide accurate, clear and accessible information about themselves, sufficient to allow:
 1. the legal name of the person, its principal geographic address, and an electronic means of contact or telephone number;
 2. prompt, easy and effective consumer communication with the seller; and
 3. service of legal process.

(2) A person using electronic communications to sell goods or services to consumers shall provide accurate and accessible information describing the goods or services offered, sufficient to enable consumers to make an informed decision about the proposed transaction and to maintain an adequate record of the information.

(3) A person using electronic communications to sell goods or services to consumers shall provide information about the terms, conditions and costs associated with a transaction, and notably:

(a) terms, conditions and methods of payment; and

Attribution of electronic communications.

Consumer protection.

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(b) details of and conditions related to withdrawal, termination, return, exchange, cancellation and refund policy information.

Regulations. 25. The Attorney General may make regulations:

- (a) to designate an entity as a public body;
- (b) to provide that electronic signatures for specified purposes shall be as reliable as appropriate for those purposes;
- (c) to provide that electronic signatures for specified purposes shall be created by specified means;
- (d) to provide formats by which information may be communicated electronically, whether or not there exist prescribed non-electronic forms;
- (e) to exclude classes of transactions, documents, or rules of law from the application of this Act; and
- (f) for any other purpose for the more effective achievement of the objects of the Act.

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