



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**ELECTRONIC TRANSACTIONS
ACT, No. 19 OF 2006**

[Certified on 19th May, 2006]

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Electronic Transactions Act, No. 19 of 2006

[Certified on 19th May, 2006]

LD.—O. 8/2004.

AN ACT TO RECOGNIZE AND FACILITATE THE FORMATION OF CONTRACTS, THE CREATION AND EXCHANGE OF DATA MESSAGES, ELECTRONIC DOCUMENTS, ELECTRONIC RECORDS AND OTHER COMMUNICATIONS IN ELECTRONIC FORM IN SRI LANKA ; AND TO PROVIDE FOR THE APPOINTMENT OF A CERTIFICATION AUTHORITY AND ACCREDITATION OF CERTIFICATION SERVICE PROVIDERS ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

1. (1) This Act may be cited as the Electronic Transactions Act, No. 19 of 2006.

Short title and date of operation.

(2) The provisions of subsection (1) of this section shall come into operation on the date on which this Act is Certified as an Act of Parliament and the other provisions shall come into operation on such date as the Minister may appoint, by Order published in the *Gazette* (hereinafter referred to as the "appointed date").

CHAPTER I

GENERAL PROVISIONS

2. The objectives of the Act shall be—

Objectives of the Act

- (a) to facilitate domestic and international electronic commerce by eliminating legal barriers and establishing legal certainty ;
- (b) to encourage the use of reliable forms of electronic commerce ;
- (c) to facilitate electronic filing of documents with Government and to promote efficient delivery of Government services by means of reliable forms of electronic communications ; and
- (d) to promote public confidence in the authenticity, integrity and reliability of data messages, electronic documents, electronic records or other communications.

CHAPTER II

RECOGNITION DATA MESSAGES AND OTHER COMMUNICATIONS IN
ELECTRONIC FORM

3. No data message, electronic document, electronic record or other communication shall be denied legal recognition, effect, validity or enforceability on the ground that it is in electronic form.

4. Notwithstanding the fact that the provisions of written laws for the time being in force in Sri Lanka attach legal validity to certain instruments, only if such instruments have been reduced to writing, such requirement shall be deemed to be satisfied by a data message, electronic document, electronic record or other communication in electronic form if the information contained therein is accessible so as to be usable for subsequent reference.

5. (1) Where the law requires information to be presented or retained in its original form, that requirement shall be deemed to be satisfied by a data message, electronic document, electronic record or other communication in electronic form if there exists a reliable assurance as to the integrity of the information from the time when it was made available in electronic form and the information contained in the data message, electronic document, electronic record or other communication is available and can be used for subsequent reference.

(2) For the purposes of subsection (1)—

- (a) the criterion for assessing the integrity of information, is whether such information has remained complete and unaltered, apart from the addition of any endorsement or any change which arises in the normal course of communication, storage or display ; and
- (b) the standard for reliability of the assurance shall be assessed having regard to the purpose for which the information was generated and all other relevant circumstances.

Legal recognition of electronic records.

Requirement for writing.

Requirements for original form.

6. The requirement under any law that information be retained, shall be deemed to be satisfied by the retention in electronic form of information contained in a data message, electronic document, electronic record or other communication notwithstanding the fact that such information was not originally generated in electronic form, if—

- (a) the information in the data message, electronic document, electronic record or communication is accessible so as to be usable for subsequent reference ; and
- (b) the data message, electronic document, electronic record or communication is retained in the format in which it was generated, sent or received, or in a format which can be demonstrated to represent accurately the information generated, sent or received ; and
- (c) such information, enables the identification of the origin and destination of the data message, electronic document, electronic record or other communication and the date and time when such information was generated, sent or received, is retained :

Provided that the provisions of this section shall not apply to any information, which is automatically generated solely for the purpose of enabling an electronic record to be dispatched or received.

7. Where any Act or enactment provides that any information or communication shall be authenticated by affixing the signature, or that any document should be signed or bear the signature of any person, then, notwithstanding anything contained in such law, such requirement shall be deemed to be satisfied, if such information or matter is authenticated by means of an electronic signature.

Explanation.— for the purpose of this section, "sign" with its grammatical variations and cognate expressions, shall, with reference to a person mean, the affixing of his hand-written signature or any mark on any document and the expression, "signature" shall be construed accordingly.

Requirements for retention.

Legal recognition of electronic signatures.

Use of
electronic
records and
electronic
signatures in
Government
institutions and
statutory bodies.

8. (1) Where any written law for the time being in force requires—

- (a) the filing of any form, application, or any other document with any Government department, office, body or agency owned or controlled by the Government or a statutory body in a particular manner ;
- (b) the issue of grant of any license, permit or approval ; or
- (c) the receipt of payment of money, procurement or other transaction to be effected in a particular manner,

then, notwithstanding anything to the contrary contained in any other law for the time being in force, such requirement shall be deemed to have been satisfied if such filing, creation, retention, issue, grant, receipt, payment, procurement or transaction, as the case may be, is effected in the form of electronic records as may be specified by the relevant Ministry, Government department, Institution, statutory body or public corporation or other similar body.

(2) The relevant authority requiring the use of electronic records specified in subsection (1), may recommend the making of regulations for the purpose of authorizing or facilitating the use of electronic communications or electronic records, to the Minister in charge of the subject, by specifying-

- (a) the manner and format in which such electronic records shall be filed, created, retained or issued ;
- (b) where such electronic documents or electronic records have to be signed, the type of electronic signature required ;

- (c) the manner and format in which such signature shall be affixed to the electronic documents or electronic records and the identity of, or the criteria which, a Certification Authority or Certification Service Provider used by such person filing the document should possess ;
- (d) the control process and procedures required in order to secure confidentiality, authenticity and integrity of electronic documents, records, procurements, transactions or payments ;
- (e) the manner or method of payment of any fee or charges for the filing, creation, retention or issue of any electronic record under paragraph (a) ;
- (f) the manner of doing anything which under any such provisions is required to be done as evidence in writing or otherwise using a document, notice or instrument ;
- (g) the manner of doing anything which under any such provision, is required to be or which may be, done by post or other specified means of delivery ;
- (h) the doing of anything which under any such provision is required to be, or which may be, authorized by a person's signature or seal ;
- (i) the making of any statement or declaration which under any such provision is required to be made under oath ;
- (j) the making of any payment that is required to be, or which may be, made under any such provision ;
- (k) any other matter relating to electronic records or payments that are presently specified for the corresponding paper documents.

Publication in electronic forms of *Gazette &c.*, deemed to be publication.

9. Where any Act or enactment provides that any Proclamation, rule, regulation, order, by-law, notification, or other matter shall be published in the *Gazette*, then such requirement shall be deemed to have been satisfied if such rule, regulation, order, by-law, notification or other matter is published in an electronic form of the *Gazette*.

No right to insist on records being in electronic form.

10. Nothing contained in the preceding sections shall confer a right upon any person to insist that any Ministry, Government Department, Institution, Statutory Body or Public Corporation or other similar body should accept or issue, any document in the form of electronic records or effect any monetary transaction in electronic form.

CHAPTER III

ELECTRONIC CONTRACTS

Electronic Contracts.

11. In the context of contract formation, unless otherwise agreed by the parties, an offer and the acceptance of an offer may be expressed in electronic form. A contract shall not be denied legal validity or enforceability on the sole ground that it is in electronic form.

Attribution of electronic records.

12. (1) Unless otherwise agreed as between an originator and the addressee, a data message, electronic document, electronic record or other communication shall be deemed to be that of the originator, if it was sent-

- (a) by the originator himself ;
- (b) by a person who had the authority to act for and on behalf of the originator in respect of that data message, electronic document, electronic record or other communication ; or
- (c) by an automated information system programmed by, or on behalf of the originator.

(2) Unless otherwise agreed as between the originator and the addressee, the addressee is to regard a data message, electronic document, electronic record or other communication as being that of the originator, and is entitled to act on that assumption, if :—

- (a) the addressee has no reason to doubt the authenticity of the data message, electronic document, electronic record or other communication ; or
- (b) there do not exist any circumstances where the addressee knows, or ought to have known by exercising reasonable care, that the data message, electronic document, electronic record or other communication was authentic.

13. (1) Where the originator has not agreed with the addressee that acknowledgement of receipt be given in a particular form or by a particular method, such an acknowledgement may be given by-

Acknowledgement of receipt.

- (a) any data message, electronic document, electronic record or other communication by the addressee, automated or otherwise ; or
- (b) any conduct of the addressee, sufficient to indicate to the originator that the data message, electronic document, electronic record or other communication has been received.

(2) Where the originator has stipulated that data message, electronic document, electronic record or other communication shall be binding only on receipt of an acknowledgement of receipt of such data message, electronic document, electronic record or other communication by him, then, unless acknowledgement has been so received, the data message, electronic document, electronic record or other communication shall be deemed to have never been sent by the originator.

(3) Where the originator has not stipulated that the data message, electronic document, electronic record or other communication shall be binding only on receipt of such acknowledgement of receipt, and the acknowledgement of receipt had not been received by the originator within the time specified or agreed, or if no time has been specified or agreed to, within a reasonable time, then the originator may give notice to the addressee stating that no acknowledgement of receipt has been received by him, and specifying a reasonable time by which the acknowledgement of receipt must be received by him and if no acknowledgement of receipt is received within the aforesaid time limit he may after giving notice to the addressee, treat the data message, electronic document, electronic record or other communication as though it has never been sent.

Time and place of dispatch and receipt of electronic records.

14. (1) Unless otherwise agreed to between the originator and the addressee, the dispatch of a data message, electronic document, electronic record or other communication occurs when it enters an information system outside the control of the originator, or if the data message, electronic document, electronic record or other communication has not left an information system under the control of the originator or of the party who sent it on behalf of the originator, the time when the data message, electronic document, electronic record or other communication is received.

(2) Unless otherwise agreed between the originator and the addressee, the time of receipt of a data message, electronic document, electronic record or other communication shall be determined as follows, namely :—

- (a) if the addressee has designated an information system for the purpose of receiving data messages, electronic document, electronic record or other communications-
- (i) receipt occurs at the time when the data message, electronic document, electronic record or other communication enters the designated information system ; or

(ii) if the data message, electronic document, electronic record or other communication is sent to an information system of the addressee that is not the designated information system, receipt occurs at the time when the data message, electronic document, electronic record or other communication is retrieved by the addressee.

(b) if the addressee has not designated an information system along with specified timings, receipt occurs when the data message, electronic document, electronic record or other communication enters an information system of the addressee.

(3) Unless otherwise agreed between the originator and the addressee, the data message, electronic document, electronic record or other communication is deemed to be dispatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.

(4) The provisions of subsection (2) shall apply notwithstanding that the place where the information system is located may be different from the place where the data message, electronic document, electronic record or other communication is deemed to have been received under subsection (3).

(5) For the purposes of this section—

- (a) if the originator or the addressee has more than one place of business, the principal place of business shall be the place of business.
- (b) if the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business ;

- (c) "usual place of residence" in relation to a body corporate, means the place where it is registered ;
- (d) if the originator and the addressee are in different time zones, time refers to Universal Standard Time.

Variation by agreement.

15. The Minister may by regulation prescribe the matters which may be agreed to between the parties to such contract, involving the generating, sending, receiving, storing or otherwise processing of data messages, electronic documents, electronic records or other communication, in relation to the provisions of Chapter III.

Liability of Certification Service Providers.

16. (1) A Certification Service Provider shall not be subject to any civil or criminal liability for any transaction under this Act in respect of third party information in the form of data messages, electronic documents, electronic records or other communications to which he merely provides access, if such liability is founded on —

- (a) the making, publication, dissemination, or distribution of such information or any statement made in such information ; or
- (b) the infringement of any rights subsisting in or in relation to such information.

(2) Nothing in this section shall effect—

- (a) any obligation founded on contract ;
- (b) the obligations of a Certification Service Provider providing such services under a licensing or other regulatory regime established under any written law ; or
- (c) any obligation imposed under any written law or by a court to remove, block or deny access to any information.

17. For the avoidance of doubt it is hereby declared that—

Avoidance of doubt.

- (a) if an offer and acceptance of an offer has been in whole or in part expressed by means of an electronic record, an electronic signature attached to, or logically associated with, such electronic record shall not be denied legal effect solely on the ground that it is with an electronic signature ;
- (b) if an electronic communication is used in the formation of a contract, the contract shall not be denied validity or enforceability solely on the ground that an electronic record had been used for such purpose ;
- (c) the accepted principles of common law relating to contracts that the offeror may prescribe the method of communicating acceptance, shall not be affected by anything contained in this Chapter ;
- (d) a contract formed by the interaction of an automated message system and a natural person or by the interaction of automated message systems, shall not be denied validity or enforceability solely on the ground that there was no review or intervention by a natural person of the final contract or of each of the actions carried out by the automated message system.

CHAPTER IV

CERTIFICATION AUTHORITY AND CERTIFICATION OF SERVICE PROVIDERS

18. (1) There shall be a Certification Authority designated by the Minister for the purposes of this Act in consultation with the Minister in charge of the subject of Information and Communication Technology,

Designation of a Certification Authority.

(2) In designating a Certification Authority the Minister may by Order published in the Gazette, designate any Government Department, Public Corporation, Statutory Body, Institution, or authority or any branch or unit thereof which shall be charged with the implementation of the provisions of this Chapter ; the Minister shall in making the Order take into consideration the capacity of the Government Department, Public Corporation, Statutory Body, institution or authority to be designated in relation to its overall ability to discharge the obligations under this Act in ensuring the proper functioning of certification services by accredited Certification Service Providers.

Powers of
Certification
Authority.

19. The Certification Authority shall have the power to—

- (a) identify the criteria which will form the basis for accreditation of Certification Service Providers and the qualifications required by them ;
- (b) hear appeals and specify the procedure to be followed in the granting of accreditation for the purposes of this Act ;
- (c) specify the procedure for the hearing of appeals in the event of a refusal to grant or renew accreditation under section 20, as the case may be ;
- (d) issue licences or any other form of authorisation to Certification Service Providers to provide prescribed services ;
- (e) require Certification Service Providers to maintain such records and registers as may be prescribed ;
- (f) from time to time call for information as may be necessary from Certification Service Providers and issue directions to such Certification Service Providers.

20. (1) No person shall function as an accredited Certification Service Provider unless he holds a valid certificate of accreditation issued under the Sri Lanka Accreditation Board for Conformity Assessment Act, No. 32 of 2005.

Accreditation of
Certification
Service
Providers.

(2) Nothing in this Act shall be construed as impeding or in any way restricting the rights of any certification service provider to engage in the business of providing certification services without being accredited.

(3) A certificate of accreditation to a Certification Service Provider may be granted in accordance with provisions of the Sri Lanka Accreditation Board for Conformity Assessment Act, No. 32 of 2005, in keeping with the criteria for accreditation specified by the Certification Authority under paragraph (a) of section 19.

CHAPTER V

RULES GOVERNING EVIDENCE

21. (1) Notwithstanding anything to the contrary in the Evidence Ordinance or any other written law, the following provisions of this section shall be applicable for the purposes of this Act.

Applicability of
the Rules of
Evidence.

(2) Any information contained in a data message, or any electronic document, electronic record or other communication—

- (a) touching any fact in issue or relevant fact ; and
- (b) compiled, received or obtained during the course of any business, trade or profession or other regularly conducted activity,

shall be admissible in any proceedings :

Provided that, direct oral evidence of such fact in issue or relevant fact if available, shall be admissible ; and there is no reason to believe that the information contained in a data message, or any electronic document, electronic record or other communication is unreliable or inaccurate :

Provided further that, for the purposes of paragraphs (a) and (b), if any information is contained in a data message, electronic document, electronic record or other communication made by a person—

- (i) who is dead or who by reason of his bodily or mental condition is unfit to attend as a witness ; or
- (ii) who is outside Sri Lanka and where reasonable steps have been taken to find such person and he cannot be found ; or
- (iii) who does not wish to give oral evidence through fear ; or
- (iv) who is prevented from so giving evidence,

evidence relating to such information shall, if available, be admissible.

(3) The Courts shall, unless the contrary is proved, presume the truth of information contained in a data message, or in any electronic document or electronic record or other communication and in the case of any data message, electronic document, electronic record or other communication made by a person, that the data message, electronic document or electronic record or other communication was made by the person who is purported to have made it and similarly, shall presume the genuineness of any electronic signature or distinctive identification mark therein.

22. Nothing contained in the Evidence (Special Provisions) Act, No. 14 of 1995 shall apply to and in relation to any data message, electronic document, electronic record or other document to which the provisions of this Act applies.

Provisions of the Evidence (Special Provisions) Act, No. 14 of 1995 not to apply.

CHAPTER VI

MISCELLANEOUS

23. The provisions contained in this Act shall not apply to —

Restriction on application of the Act.

- (a) the creation or execution of a will, or any other testamentary disposition by whatever name called ;
- (b) a license for a Telecommunication system issued under subsection (6) of section 17 of the Telecommunications Act, No. 25 of 1991 ;
- (c) a Bill of Exchange as defined in subsection(1) of section 3 of the Bills of Exchange Ordinance (Chapter 82) ;
- (d) a Power-of-Attorney as defined in section 2 of the Power of Attorney Ordinance (Chapter 122) ;
- (e) a Trust as defined in the Trusts Ordinance (Chapter 87) excluding a constructive, implied and resulting trust ;
- (f) a contract for sale or conveyance of immovable property or any interest in such property ;
- (g) or any other document act or transaction specified by the Minister by regulations made under section 24.

24. (1) The Minister may, in consultation with the Minister in Charge of the subject of Information and Communication Technology, make regulations in respect of any matter required or authorized by this Act to be made, or for the purpose of carrying out or giving effect to the objectives of this Act, as specified in subsection (2).

Regulations.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for and in respect of all or any of the following matters :—

- (a) specifying the electronic infrastructure and guidelines that are—
 - (i) sufficiently secure to meet the needs of Ministries, Government Departments, bodies or agencies owned and controlled by the Government, and Statutory bodies ;
 - (ii) interoperable to the maximum extent possible ;
- (b) the conditions of service of the members of the Certification Authority in relation to the implementation of the provisions of this Act ;
- (c) the powers, duties and functions of a person, body of persons, statutory body or institution being appointed as a Certification Authority in terms of section 18 and the other terms and conditions applicable to them ;
- (d) criteria for accreditation of certification service providers under section 20, its cryptography services, electronic signature or advance electronic signature and security procedures or any other legal consequences connected therewith ;
- (e) the procedure for appeals against refusal to grant or renew an accreditation certificate ;
- (f) the qualifications required of persons seeking to provide certifications services ;
- (g) the procedure for the recognition of Certification Service Providers, the issue of licences to such Certification Service Providers and the categories of services required to be provided by them ;

- (h) the records to be maintained by the Certification Service Providers and the manner in which information has to be furnished to the Certification Authority by such Certification Service Provider ; and
- (i) the matters referred to in section 15.

(3) Every regulation made by the Minister shall be published in the *Gazette* and shall as soon as convenient after its publication in the *Gazette* be brought before Parliament for approval.

(4) Every regulation, which is not so approved, shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.

(5) The date on which such regulations shall be deemed to be so rescinded shall be published in the *Gazette*.

25. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.

26. For the purposes of this act, unless the context otherwise requires —

Interpretation.

“addressee” means the person intended by the originator to receive the communication but does not include an intermediary ;

“Certification Authority” means the Certification Authority appointed in terms of Chapter IV of the Act ;

“certification services” means any service which is provided to the senders or recipients of information in electronic form, or to those storing such

information, and is designed to facilitate the use of cryptographic techniques for the purpose of ascertaining that the confidentiality, authenticity and integrity of such information is secured ;

“Certification Service Provider” means a person providing certification services within the meaning of this Act ;

“communication” means any statement, declaration, demand, notice or request, including an offer and the acceptance of an offer that a person is required to make or chooses to make in connection with an electronic transaction within the meaning of this Act ;

“computer” means an electronic or similar device having information processing capabilities ;

“data message” means information generated, sent, received or stored by electronic, magnetic, optical or other similar means ;

“electronic” means information generated, sent received or stored by electronic, magnetic, optical, or similar capacities regardless of the medium ;

“electronic document” includes documents, records, information, communications or transactions in electronic form ;

“electronic record” means a written document, or other record created, stored, generated, received, or communicated by electronic means ;

“electronic signature” means any letters, numbers, symbols, images, characters or any combination thereof in electronic form, applied to, incorporated in or logically associated with an electronic document,

with the intention of authenticating and, or approving the same, in order to establish authenticity or integrity, or both ;

“information” includes text, message, data, voice, sound, database, video, signals, software, computer programs, including object codes and source codes ;

“information system” means an electronic system for creating, generating, sending, receiving, storing, reproducing, displaying, recording or processing information ;

“intermediary” means a person acting as a service provider on behalf of another person in relation to the sending, receiving, storing or processing of the electronic communication or the provision of other services in relation to it ;

“network service provider” means a person who owns, possesses, operates, manages or controls a public switched network or provides telecommunication services ;

“originator” means a person by who or on whose behalf the communication purports to have been sent or generated prior to receipt or storage, if any, but it does not include a person acting as an intermediary with respect to that communication ;

“provides access” in relation to third-party information, means the provision of the necessary technical means by which third-party information may be accessed and includes the automatic and temporary storage of the third-party information for the purpose of providing access ;

“security procedure” means a procedure which in relation to a certificate issued by a certification service provider, is specified in its certification practice statement for establishing the authenticity or integrity, or both, of any electronic document, which may require the use of algorithms or codes, identifying words and numbers, encryption, answer back or acknowledgment procedures, software, hardware or similar security devices ;

“third party” in relation to a network service provider means a person over whom the provider has no effective control ;