



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

**ELECTRONIC TRANSACTIONS (AMENDMENT)
ACT, No. 25 OF 2017**

[Certified on 02nd of November, 2017]

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*Electronic Transactions (Amendment)
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L.D.—O 22/2016.

AN ACT TO AMEND THE ELECTRONIC TRANSACTIONS
ACT, NO. 19 OF 2006

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

1. This Act may be cited as the Electronic Transactions (Amendment) Act, No. 25 of 2017. Short title.

2. The long title of the Electronic Transactions Act, No. 19 of 2006 (hereinafter referred to as the “principal enactment”) is hereby amended, by the substitution for the words “AND ACCREDITATION OF CERTIFICATION SERVICE PROVIDERS; AND”, of the words “AND LICENSING AND AUTHORISING OF CERTIFICATION SERVICE PROVIDERS; TO GIVE EFFECT TO THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON THE USE OF ELECTRONIC COMMUNICATIONS IN INTERNATIONAL CONTRACTS AND”. Amendment of the long title of Act, No. 19 of 2006.

3. Section 2 of the principal enactment is hereby amended as follows:- Amendment of section 2 of the principal enactment.
 - (1) by the repeal of paragraph (c) thereof and the substitution therefor, of the following new paragraphs:-
 - “(c) to facilitate electronic filing of any application, petition, plaint, answer, written submission or any other document with any court;

 - (ca) to facilitate electronic filing of any form, application, or any other document with any

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ministry, department, provincial council, provincial ministry and department or local authority or, office, body or agency owned or controlled by the Government or a statutory body in a particular manner and to promote efficient delivery of public service by means of reliable forms of electronic communications;”;

- (2) in paragraph (d) thereof, by the substitution for the words “other communications.”, of the words “other communications; and”;
- (3) by the insertion of new paragraph immediately after paragraph (d) thereof, of the following new paragraph:-

“(e) to implement the provisions of the Convention subject to such restrictions specified in section 23 of this Act declared at the time of ratification of the Convention.”.

Amendment of section 5 of the principal enactment.

4. Section 5 of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for the words “the time when it was made available in electronic form”, of the words “the time when it was first generated in its final form as a data message, electronic document, electronic record or communication or otherwise”.

Replacement of section 7 of the principal enactment.

5. Section 7 of the principal enactment is hereby repealed and the following section substituted therefor:-

“Legal recognition of electronic signatures.

7. Where any written law provides that a communication or any other document shall, be signed or bear the signature of any person, then notwithstanding anything to the contrary

in such written law, that requirement shall be deemed to be met in relation to a data message, electronic document, electronic record or communication if-

- (a) a method is used to identify that person and to indicate that person's intention in respect of the information contained in the electronic communication; and
- (b) the method used is,
 - (i) as reliable as appropriate for the purpose for which the electronic communication was generated, sent or communicated, in the light of all the circumstances, including any relevant agreement; or
 - (ii) proven to have fulfilled the functions described in paragraph (a) by itself or together with further evidence.”.

6. Section 8 of the principal enactment is hereby further amended as follows:-

Amendment of section 8 of the principal enactment.

- (1) in subsection (1) thereof, by the substitution for the words “contained in any other law” and “electronic records as”, of the words “contained in any other written law” and “electronic records, electronic document, data message or any electronic communication as” respectively;
- (2) in paragraph (b) of subsection (1) thereof, by the substitution for the words “any license, permit or approval;”, of the words “any license, certificate, permit or any other form of approval;”; and

- (3) in subsection (2) thereof, by the substitution for the words “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,”, of the words “requiring the use of data message, electronic record, electronic document or electronic communication specified in subsection (1), may recommend the making of regulations for the purpose of authorizing or facilitating the use of such data message, electronic record, electronic document or electronic communication,”.

Amendment of section 10 of the principal enactment.

7. Section 10 of the principal enactment is hereby repealed and the following section substituted therefor:-

“Ministry, department, & etc, to accept or issue any document in electronic form.

10. Every ministry, department, institution, public corporation or other similar body may, subject to the provisions of this Act, accept or issue, any document in the form of data message, electronic record, electronic document or other communication in electronic form.”.

Insertion of new section 11A in the principal enactment.

8. The following new section is hereby inserted immediately after section 11 of the principal enactment and shall have effect as section 11A of that enactment :-

“Invitation to make offers.

11A. A proposal to conclude a contract made through one or more electronic communications which is not addressed to one or more specific parties, but is generally accessible to parties making use of any information systems, shall be considered as an invitation to make offers, unless it clearly indicates the intention of the party making the proposal to be bound in case of acceptance.”.

9. Section 14 of the principal enactment is hereby amended:-

Amendment of section 14 of the principal enactment.

- (1) in subsection (1) thereof, by the substitution for the words “enters an information system outside the control of the originator,”, of the words “leaves an information system under the control of the originator,”;
- (2) by the repeal of subsection (2) thereof, and the substitution therefor, of the following new subsection:-

“(2) (a) 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-

- (i) if the addressee has designated an electronic address for the purpose of receiving data message, electronic document, electronic record or other communication, time of receipt occurs at the time when the said data message, electronic document, electronic record or other communication becomes capable of being retrieved by the addressee; or
- (ii) if the addressee has not designated an electronic address or has indicated another electronic address for the purpose of receiving data message, electronic document, electronic record or other

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communication, time of receipt occurs at the time when the said data message, electronic document, electronic record or other communication becomes capable of being retrieved by the addressee at that electronic address and the addressee becomes aware that the said data message, electronic document, electronic record or other communication has been sent to that electronic address.

(b) For the purpose of this subsection, a data message, electronic document, electronic record or other communication is presumed to be capable of being retrieved by the addressee when the said data message, electronic document, electronic record or other communication reaches the addressee’s electronic address.”;

- (3) by the repeal of subsection (5) thereof, and the substitution therefor, of the following new subsection-

“(5) For the purposes of this section–

- (a) if the originator or the addressee has not indicated a place of business or has more than one place of business, the place of business is that which has the closest relationship to the relevant contract, having regard to the circumstances known to or contemplated by the originator or the addressee before or at the conclusion of the contract;

- (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) a location is not a place of business merely because-
 - (i) the equipment and technology supporting an information system used by a particular originator or the addressee in connection with the formation of a contract, are in that particular location; or
 - (ii) the information system may be accessed by addressee in that location;
- (d) the fact that the originator or the addressee makes use of a domain name or electronic mail address connected to a specific country does not create a presumption that the said originator or the addressee's place of business is located in that country;
- (e) a party's place of business is presumed to be the location indicated by that party, unless another party demonstrates that the party making the indication does not have a place of business at that location; and
- (f) "usual place of residence" in relation to a body corporate, means the place where it is registered."

Insertion of new section 14A in the principal enactment.

10. The following new section is hereby inserted immediately after section 14 of the principal enactment and shall have effect as section 14A of that enactment:-

“Error in electronic communications.

14A. (1) Where a natural person in relation to the formation or performance of an electronic contract, makes an input error in an electronic communication exchanged with the automated message system of another party and the automated message system does not provide the person with an opportunity to correct the error, that person, or the party on whose behalf that person was acting, has the right to withdraw the portion of the electronic communication in which the input error was made, if-

- (a) the person, or the party on whose behalf that person was acting, notifies the other party of the error as soon as possible after having learned of the error and indicates that he made an error in the electronic communication; and
- (b) the person, or the party on whose behalf that person was acting, has not used or received any material benefit or value from the goods and services, if any, received from the other party.

(2) Nothing in this section affects the application of any rule of law that may govern the consequences of any error other than as provided for in subsection (1).”.

Amendment of section 18 of the principal enactment.

11. Section 18 of the principal enactment is hereby amended in subsection (2) thereof, by the substitution for the words “of this Chapter” and “accredited Certification Service Providers.”, of the words “of this Act” and “licensed or authorized Certification Service Providers.” respectively.

12. The following new section is hereby inserted immediately after section 18 of the principal enactment and shall have effect as section 18A of that enactment:-

Insertion of new section 18A in the principal enactment.

“Minister to appoint the task forces.

18A. The Minister shall, on the recommendation of the Secretary to the Ministry of the Minister, appoint a task force or a body of persons to manage and administer the Certification Authority, having regard to the qualifications and experience as well as the need to represent relevant stakeholders, with the objective of ensuring its proper administration.”.

13. Section 19 of the principal enactment is hereby amended as follows:-

Amendment of section 19 of the principal enactment.

(1) in paragraph (a) thereof, by the substitution for the words “accreditation”, of the words “licensing or authorization”;

(2) by the repeal of paragraphs (b) and (c) thereof and the substitution therefor of the following new paragraphs:-

“(b) hear appeals and specify the procedure to be followed in the granting of a license or an authorization 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 a license or an authorization under section 20, as the case may be;”;

(3) by the insertion immediately after paragraph (d) thereof, of the following new paragraph:-

“(da) authorize Certification Service Providers to issue various types of electronic signatures

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in accordance with such criteria and guidelines as may be prescribed, including operational framework and security procedure for the use of biometric data and other authentication technologies for verification purposes;”.

Amendment of section 20 of the principal enactment.

14. Section 20 of the principal enactment is hereby amended as follows:-

- (1) by the repeal of subsection (1) thereof and the substitution therefor, of the following new subsection:-

“(1) A Certification Service Provider may be licensed or authorized by the Certification Authority in accordance with the criteria prescribed from time to time.”;

- (2) in subsection (2) thereof, by the substitution for the words “without being accredited”, of the words “without being licensed or authorized”;

- (3) by the repeal of subsection (3) thereof; and

- (4) by the repeal of the marginal note thereof and the substitution therefor of the following:-

“Licensing or authorizing the Certification Service Providers.”.

Amendment of section 23 of the principal enactment.

15. Section 23 of the principal enactment is hereby amended as follows:-

- (1) by the insertion immediately after paragraph (c) thereof, of the following new paragraph:-

“(ca) any financial matter in the nature of the following:-

- (i) transactions on a regulated exchange;

- (ii) foreign exchange transactions;
 - (iii) inter-bank payment systems, inter-bank payment agreements or clearance and settlement systems relating to securities or other financial assets or instruments; and
 - (iv) the transfer of security rights in sale, loan or holding of or agreement to repurchase securities or other financial assets or instruments held with an intermediary;”;
- (2) by the repeal of paragraph (e) thereof and the substitution therefor, of the following:-

“(e) a trust as defined in the Trusts Ordinance (Chapter 87) excluding a constructive, implied and resulting trust;”.

16. Section 24 of the principal enactment is hereby amended as follows:-

Amendment of section 24 of the principal enactment.

- (1) in subsection (1) thereof, by the substitution for the words and figures “subsection (2)”, of the words and figures “section 2.”;
- (2) by the repeal of paragraph (c) of subsection (2) thereof and the substitution therefor, of the following new paragraph:-

“(c) the powers, duties and functions of the Task Force or body of persons being appointed to manage and administer the Certification Authority in terms of section 18A and the other terms and conditions applicable to them;”;
- (3) in paragraph (d) of subsection (2) thereof, by the substitution for the words “criteria for accreditation

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of certification service providers under section 20”,
of the words “criteria for licensing or authorizing
of certification service providers under section 20”;

- (4) by the insertion immediately after paragraph (d)
of subsection (2) thereof, of the following new
paragraph-

“(da) prescribe criteria and guidelines for
Certification Service Providers to issue
various types of electronic signatures,
including the operational framework and
security procedures for the use of biometric
data and other authentication technologies
for verification purposes ;” and

- (5) in paragraph (e) of subsection (2) thereof, by the
substitution for the words “an accreditation
certificate”, of the words “a license or an
authorization”.

Amendment of
section 26 of the
principal
enactment.

17. Section 26 of the principal enactment is hereby
amended as follows:-

- (1) by the insertion immediately after the definition of
term of expression “addressee”, of the following
new definition:-

““automated message system” means a computer
program or an electronic or other automated
means used to initiate an action or respond to
data messages or performances in whole or in
part, without review or intervention by a
natural person each time an action is initiated
or a response is generated by the system;”;

- (2) by the insertion immediately after the definition
of term of expression “computer”, of the following
new definition:-

““Convention” means the United Nations
Convention on the Use of Electronic

Communications in International Contracts ratified by Sri Lanka on July 7, 2015 subject to the declaration made at the time of ratification;”;

- (3) by the insertion immediately after the definition of term of expression “electronic”, of the following new definitions:-

““electronic address” means a communication network or an electronic mailbox, telecopy device or a designated portion or location in an information system that a person uses to receive a data message, electronic document, electronic record or any communication;

“electronic communication” means any communication made by means of data message;”;

- (4) by the repeal of the definition of term of expression “electronic signature” and the substitution therefor, of the following definition:-

““electronic signature” means data in electronic form, affixed to logically associated with a data message, electronic document, electronic record or communication which may be used to identify the signatory in relation to the data message, electronic document, electronic record or communication and to indicate the signatory’s intention in respect of the information contained therein;”;

- (5) by the insertion immediately after the definition of term of expression “intermediary”, of the following new definition:-

““Minister” means the Minister to whom the implementation of the provisions of

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Electronic Transactions Act, No. 19 of 2006
is assigned;”;

- (6) by the repeal of the definition of term of expression
“originator” and the substitution therefor, of the
following definitions:-

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

“prescribe” means prescribe by regulations made
under this Act;”;

- (7) by the substitution, in the definition of the term of
expression “security procedure”, for the words
“a certificate issued” of the words “a license or an
authorization issued”.

Sinhala text to
prevail in case
of inconsistency.

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