

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.

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

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.