

CHAPTER II

RECOGNITION DATA MESSAGES AND OTHER COMMUNICATIONS IN ELECTRONIC FORM

Legal
recognition of
electronic
records.

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.

Requirement for
writing.

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.

Requirements
for original
form.

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.

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—

Requirements for retention.

- (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.

Legal recognition of electronic signatures.

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.

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.