



Electronic Trade Documents Act 2023

2023 CHAPTER 38

2 Definition of “electronic trade document”

- (1) This section applies where information in electronic form is information that, if contained in a document in paper form, would lead to the document being a paper trade document.
- (2) The information, together with any other information with which it is logically associated that is also in electronic form, constitutes an “electronic trade document” for the purposes of this Act if a reliable system is used to—
 - (a) identify the document so that it can be distinguished from any copies,
 - (b) protect the document against unauthorised alteration,
 - (c) secure that it is not possible for more than one person to exercise control of the document at any one time,
 - (d) allow any person who is able to exercise control of the document to demonstrate that the person is able to do so, and
 - (e) secure that a transfer of the document has effect to deprive any person who was able to exercise control of the document immediately before the transfer of the ability to do so (unless the person is able to exercise control by virtue of being a transferee).
- (3) For the purposes of subsection (2)—
 - (a) a person exercises control of a document when the person uses, transfers or otherwise disposes of the document (whether or not the person has a legal right to do so), and
 - (b) persons acting jointly are to be treated as one person.
- (4) Reading or viewing a document is not, of itself, sufficient to amount to use of the document for the purposes of subsection (3)(a).
- (5) When determining whether a system is reliable for the purposes of subsection (2), the matters that may be taken into account include—
 - (a) any rules of the system that apply to its operation;
 - (b) any measures taken to secure the integrity of information held on the system;
 - (c) any measures taken to prevent unauthorised access to and use of the system;

Status: This is the original version (as it was originally enacted).

- (d) the security of the hardware and software used by the system;
- (e) the regularity of and extent of any audit of the system by an independent body;
- (f) any assessment of the reliability of the system made by a body with supervisory or regulatory functions;
- (g) the provisions of any voluntary scheme or industry standard that apply in relation to the system.