# THE ELECTRONIC COMMUNICATIONS AND TRANSACTIONS BILL, 2020

# MEMORANDUM

The objects of this Bill are to—

- (a) provide a safe and effective environment for electronic transactions;
- (b) promote secure electronic signatures;
- (c) facilitate electronic filling of documents by public authorities;
- (d) provide for the use, security, facilitation and regulation of electronic communications and transactions;
- (e) promote legal certainty and confidence, and encourage investment and innovation in relation to electronic transactions;
- (f) regulate the National Public Key Infrastructure;
- (g) repeal and replace the Electronic Communications and Transactions Act, 2009; and
- (h) provide for matters connected with, or incidental, to the foregoing.

L. Kalaluka, Attorney-General

# THE ELECTRONIC COMMUNICATIONS AND TRANSACTIONS BILL, 2020

ARRANGEMENT OF SECTIONS

#### PART I

# PRELIMINARY PROVISIONS

#### Section

- 1. Short title and commencement
- 2. Interpretation
- 3. Application

#### PART II

### LEGAL REQUIREMENTS FOR DATA MESSAGES

- 4. Legal requirements for data message
- 5. Writing
- 6. Use of advanced electronic signature
- 7. Use of electronic signature
- 8. Determination of originality of data message
- 9. Admissibility and evidential weight of data message
- 10. Retention of information in data message
- 11. Production of document or information
- 12. Notarisation, acknowledgment and certification
- 13. Other legal requirement
- 14. Automated transaction
- 15. Dispatch of electronic record
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- 17. Expression of intent or other statement
- 18. Attribution of electronic records to originator
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#### PART III

#### COMMUNICATION OF DATA MESSAGES

- 20. Application of Part
- 21. Formation and validity of agreement
- 22. Expression of intent or other statement
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- 24. Requirements for electronic filing and issuing of document

#### **PART IV**

## NATIONAL PUBLIC KEY INFRASTRUCTURE

- 25. National Root Certification Authority
- 26. Functions of National Root Certification Authority
- 27. Prohibition of providing certification service or time-stamping service without licence
- 28. Licence
- 29. Certification authority
- 30. Variation of licence
- 31. Surrender of licence
- 32. Transfer of cede or assignment of licence
- 33. Suspension or cancellation of licence
- 34. Registration of cryptography service provider
- 35. Recognition of foreign certification authority
- 36. Issue of certificate to prospective subscriber
- 37. Details of certificate

#### PART V

# CERTIFICATION AUTHORITY

- 38. Trustworthy system
- 39. Disclosure and compliance with certification practice statement
- 40. Audit services
- 41. Publication of certificate revocation list
- 42. Prohibition of publication of certificate
- 43. Representations on issuance of certificate
- 44. Recommended reliance limits
- 45. Liability limits for certification authority
- 46. Suspension of certification authority certificate
- 47. Notice of suspension
- 48. Revocation of certificate
- 49. Revocation without subscriber's consent
- 50. Notice of revocation
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#### DUTIES OF SUBSCRIBERS

- 53. Generating key pair
- 54. Obtaining certificate
- 55. Acceptance of certificate
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- 59. Timestamping service providers
- 60. Requirements for timestamping service providers
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#### CONSUMER PROTECTION

- 62. Scope of application
- 63. Information to be provided by supplier
- 64. Online markets
- 65. Solicited goods, services or communications
- 66. Coolingoff period
- 67. Performance
- 68. Applicability of foreign law
- 69. Nonexclusion
- 70. Complaints to authority
- 71. Directives, code of conduct and guidelines

#### PART IX

#### DOMAIN NAME REGULATION

- 72. Regulation of domain name
- 73. Licensing of registrars and registries
- 74. Regulations regarding registries, etc