

Electronic Communications and Transactions Bill

Guyana

Electronic Transactions

Definitions of Data:

data 'means any document, correspondence, memorandum, book, plan, map, drawing, pictorial or graphic work, photograph, film, microfilm, sound recording, videotape, machine-readable record and any other documentary material, regardless of physical form or characteristics and any copy of those things'.

Main Focus of Document:

Provides regulatory measures for electronic transactions and communications

Target Beneficiaries or Sectors:

n/a

Key Elements:

Ensures the facilitation and also the regulation of secure electronic communications and transactions, and promotes the development of legal and business infrastructure necessary to implement secure electronic commerce.

Key sections include: 7. An electronic communication shall not be denied legal effect, validity, admissibility or enforceability solely on the ground that it is (a) rendered or made available in electronic form; or (b) not contained in the electronic communication purporting to give rise to legal effect but is referred to in that electronic communication.

ELECTRONIC CONTRACTS 17. (1) In the context of the formation of contracts, an offer and the acceptance of an offer or any other matter that is material in the operation or formation of a contract may be expressed by means of electronic communications. (2) Where an electronic communication is used in the formation of a contract, that contract shall not be denied legal effect, validity or enforceability solely on the ground that an electronic communication was used for that purpose. 18. As between the originator and the addressee of an electronic communication, a declaration of intent or other statement shall not be denied legal effect, validity or enforceability solely on the ground that it is in the form of an electronic communication.

27. Where a rule of law requires a signature, or provides for certain consequences if a document or a record is not signed, that requirement is satisfied in relation to an electronic document or record if – (a) an electronic signature is used to identify the person and to indicate that person's intention in respect of the information contained in the electronic document or record; and (b) the electronic signature used is either — (i) as reliable as appropriate for the purpose for which the electronic document or record was generated or communicated, in the light of all the circumstances, including any relevant agreement; or (ii) proven in fact to have fulfilled the functions described in paragraph (a), by itself or together with further evidence. 28. Unless otherwise provided by law, the parties to an electronic transaction may agree to the use of a particular method or form of electronic signature or security procedure. 30. Where signature creation data or authentication data is used to create a signature or authenticate any electronic communication or record that has legal effect, each signatory shall: (a) exercise reasonable care to avoid unauthorised use of his signature creation data or authentication data; (b) without undue delay, notify any person who may reasonably be expected by the signatory to rely on or to provide services in support of the electronic signature if (i) the signatory knows that the signature creation data or authentication data has been compromised or (ii) the circumstances known to the signatory give rise to a substantial risk that the signature creation data or authentication data may have been compromised; and (c) where a certificate is used to support the electronic signature or authentication data, exercise reasonable care to ensure the accuracy and completeness of all material representation made by the signatory, which are relevant to the certificate throughout its lifecycle, or which are to be included in the certificate. 39. (1) Where a public authority pursuant to a written law – (a) accepts the filing of any form, application or any other document or obtains information in a particular manner; (b) issues or grants any licence, permit, sanction or approval by whatever name called in a particular manner; (c) receives or pays money in a particular manner, then, notwithstanding anything contained in any other law, the public authority may discharge the functions under this subsection by electronic means as may be specified by the Minister responsible for governance by order.

CONSUMER PROTECTION 44.(1) An electronic-commerce service provider who by use of electronic transactions sells or hires any goods, services or facilities to consumers shall provide accurate, clear and accessible information about themselves, sufficient to allow: (a) the legal name of the provider, his principal geographic address, and an electronic means of contact or telephone number; (b) prompt, easy and effective consumer communication with the seller; and (c) service of legal process. (2) An electronic-commerce service provider who by use of electronic transactions sells or hires any goods, services or facilities to consumers shall provide accurate and accessible information describing the goods or services offered, sufficient to enable consumers to make an informed decision about the proposed transaction and to maintain an adequate record of the information. (3) An electronic-commerce service provider who by use of electronic transactions sells or hires any goods, services or facilities to consumers shall, before the conclusion of the electronic contract based on such transaction, provide information to consumers in respect of the electronic contract, about the terms, conditions and costs associated with a transaction, and notably (a) terms, conditions and methods of payment;

and (b) details of and conditions and policies related to privacy, withdrawal, termination, return, exchange, cancellation and refund policy information; (c) the arrangements for delivery or performance; and (d) a copy of the contract for the consumer in a format that can be retained. (4) The Minister may make regulations relating to the sale of goods or services by an electronic-commerce service provider using electronic transactions.

Authentication Data Data privacy Digital infrastructure Electronic commerce Electronic communication Electronic contracts Electronic signature

Policy/regulation mirrored:

Electronic Transactions Acts/Bills

Countries:

Jamaica

Barbados

Brunei

Ghana

Lesotho

Namibia

Nigeria

South Africa

Sri Lanka

The Bahamas

Grenada

St Vincent and The Grenadines

Belize

Trinidad and Tobago