

# Electronic Transactions Act

## St Kitts and Nevis

### E-Government

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#### Definitions of Data:

“data” means any representation of facts, information or concepts in a form suitable for processing in an information system, including a program suitable to cause an information system to perform a function

#### Main Focus of Document:

Establishes the legal principles applicable to the conduct of electronic commerce and the processing, verification and attribution of electronic records. The Act also provides for the approval, registration and liabilities of service providers and for incidental and connected purposes.

#### Target Beneficiaries or Sectors:

n/a

#### Key Elements:

Notable details include: 5. Legal Recognition of Electronic Records Information shall not be denied legal effect or validity solely on the ground that it is: (a) in the form of an electronic record; or (b) referred to but not contained in an electronic record.

6. Requirement for Information to be in Writing (1) Where information is required by law to be in writing, or is described in any statutory provision as being written, that requirement is satisfied by provision of an electronic record, if the information contained in the electronic record is accessible and is capable of retention for subsequent reference. (2) Subsection (1) shall apply if the requirement for the information to be in writing is in the form of an obligation or if the law provides consequences if it is not in writing.

E-GOVERNMENT SERVICES 13. Government Services (1) Notwithstanding section 40, nothing in this Act shall require a ministry or public body to process an electronic record, but the relevant Minister for the ministry in question may, by notice published in the Gazette, indicate that a ministry or public body shall process electronic records relating to such matters as may be specified in the notice. (2) Until a notice under subsection (1) has been published, no person dealing with such ministry or public body shall be entitled to use an electronic record, to meet a requirement to process a record. (3) The State, the Minister, or any employee of the State in performing a function in terms of this Act shall not be liable in respect of any act or omission in good faith and without gross negligence.

14. Acceptance of Electronic Filing and Issuing of Documents Any public body that pursuant to any law (a) accepts the filing of documents, or requires that documents be created or retained; (b) issues any permit, licence or approval; or (c) provides for a manner of payment; may, notwithstanding anything to the contrary in such law (i) accept the filing of such documents, or the creation or retention of such documents in the form of electronic records; (ii) issue such permit, licence or approval in the form of an electronic record; or (iii) make or receive payment in electronic form or by electronic means.
15. Formation and validity of contracts (1) Unless otherwise agreed by the parties, an offer, and the acceptance of an offer, in relation to a contract may be expressed (a) by means of electronic records; or (b) by an act that is intended to result in an electronic communication such as touching or clicking an appropriate icon or other place on a computer screen, by speaking or accessing an electronic page or site subject to prior expressed conditions. (2) As between the originator and the addressee of an electronic record, a declaration of intention or other statement shall not be denied legal effect or validity solely on the ground that it is in the form of an electronic record. (3) An electronic contract may be formed through the interaction of a computer program or other electronic means used to initiate an act or to respond to an electronic communication, in whole or in part, without review by an individual at the time of the response or act. (4) Where an electronic contract is formed in accordance with subsection (3) it shall be valid and binding on the condition that (a) the contracting party knows or has reason to believe that by taking a particular action he or she will cause the transaction to be completed electronically; (b) the contract terms were capable of being reviewed by all the contracting parties prior to the formation of the contract. (c) in a case where a person receives money or other benefit from or through an electronic agent as a result of an error, the person returns or disposes of the consideration.
16. Equal Treatment of Signatures (1) Except as provided in section 21, the provisions of this Act shall not be applied so as to exclude, restrict, or deprive of legal effect, any method of creating an electronic signature which (a) satisfies the requirements of section 21 (1); or (b) otherwise meets the requirements of an applicable law. (2) An electronic signature that is associated with a certificate issued by a certification service provider under section 27 is deemed to satisfy the requirements of section 6.

LIABILITY OF INTERMEDIARIES AND SERVICE PROVIDERS 32. Third Party Liability (1) The intermediary or service provider is not liable for providing access to, or for operating facilities for, information systems or transmitting, routing or storage of electronic records via an information system under its control, as long as the intermediary or service provider (a) does not initiate the transmission; (b) does not select the

addressee; (c) performs the functions in an automatic, technical manner without selection of the electronic record; and (d) does not modify the electronic record contained in the transmission. (2) The acts of transmission, routing and of provision of access referred to in subsection (1) include the automatic, intermediate and transient storage of the information transmitted in so far as this takes place (a) for the sole purpose of carrying out the transmission in the information system; (b) in a manner that makes it ordinarily inaccessible to anyone other than anticipated recipients; and (c) for a period no longer than is reasonably necessary for the transmission.

Data Data processing Data transfer or transmission Digital government Electronic commerce Electronic communication Electronic records Electronic signature

**Policy/regulation mirrored:**

**Countries:**