

# ELECTRONIC COMMUNICATIONS ACT 2000

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part II Facilitation of electronic commerce, data storage, etc.

##### *Section 7: Electronic signatures and related certificates*

42. This section provides for the admissibility of electronic signatures and related certificates in legal proceedings.
43. It will be for the court to decide in a particular case whether an electronic signature has been correctly used and what weight it should be given (e.g. in relation to the authentication or integrity of a message) against other evidence. Some businesses have contracted with each other about how they are to treat each other's electronic communications. Section 7 does not cast any doubt on such arrangements.
44. *Subsection (1)* allows an electronic signature, or its certification, to be admissible as evidence in respect of any question regarding the authenticity or integrity of an electronic communication or data. *Authenticity* and *integrity* are both defined in section 15(2):
- references to the *authenticity* of any communication or data are references to any one or more of the following—
    - (i) whether the communication or data comes from a particular person or other source;
    - (ii) whether it is accurately timed and dated;
    - (iii) whether it is intended to have legal effect.
  - references to the *integrity* of any communication or data are references to whether there has been any tampering with or other modification of the communication or data.
45. *Subsection (2)* defines an *electronic signature* for the purposes of the section.
46. *Subsection (3)* explains what is meant by *certified* in this context.