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IMPORTANT INFORMATION

This Act is Current to March 7, 2012

ELECTRONIC TRANSACTIONS ACT

[SBC 2001] CHAPTER 10 *Assented to April 11, 2001*

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Part 1 — Definitions, Application and Exceptions

Definitions

1 In this Act:

"electronic" means created, recorded, transmitted or stored in digital or other intangible form by electronic, magnetic or optical means or by any other similar means;

"electronic agent" means a computer program, or other electronic means, used to initiate an activity or to respond to electronic information, records or activities in whole or in part without review by an individual at the time of the response or activity;

"electronic signature" means information in electronic form that a person has created or adopted in order to sign a record and that is in, attached to or associated with the record.

Application and exceptions

2 (1) This Act does not limit the operation of a law that

(a) expressly authorizes, prohibits or regulates the use of information or records in electronic form, or

(b) requires information or a record to be posted, displayed or delivered in a specific manner.

(2) For the purpose of subsection (1), the use of "in writing" and "signature" and other similar words and expressions does not by itself prohibit the use of information or records in electronic form.

(3) The provisions of this Act relating to the satisfaction of a requirement of a law apply whether or not the law creates an obligation or provides consequences.

(4) This Act does not apply to

(a) wills,

(b) trusts created by wills,

(c) powers of attorney, to the extent that they concern the financial affairs or personal care of an individual,

(d) documents that create or transfer interests in land and that require registration to be effective against third parties, or

(e) other provisions, requirements, information or records prescribed in the regulations.

(5) Parts 2 and 3 do not apply to negotiable instruments or documents of title.

Part 2 — General

Legal recognition

3 Information or a record to which this Act applies must not be denied legal effect or enforceability solely by reason that it is in electronic form.

Use not mandatory

4 (1) Nothing in this Act requires a person to provide, receive or retain information or a record in electronic form without the person's consent.

(2) Consent by a person to provide, receive or retain information or a record in electronic form may be inferred from the person's conduct.

Requirement for a record to be in writing

5 A requirement under law that a record be in writing is satisfied if the record is

(a) in electronic form, and

(b) accessible in a manner usable for subsequent reference.

Requirement to provide information or a record to be in writing

6 A requirement under law that a person provide information or a record in writing to another person is satisfied if the person provides the information or record in electronic form and the information or record is

(a) accessible by the other person in a manner usable for subsequent reference, and

(b) capable of being retained by the other person in a manner usable for subsequent reference.

Requirement to provide information or a record in a specified non-electronic form

7 A requirement under law that a person provide information or a record organized in a specified non-electronic form to another person is satisfied if the person provides the information or record electronically and the information or record is

(a) organized in the same or substantially the same manner as the specified non-electronic form,

(b) accessible by the other person in a manner usable for subsequent reference, and

(c) capable of being retained by the other person in a manner usable for subsequent reference.

Requirement to provide and retain originals

8 (1) A requirement under law that a person provide an original record is satisfied by the provision of the record in electronic form if

(a) there exists a reliable assurance as to the integrity of the record in electronic form, and

(b) the record in electronic form is accessible by the person to whom it is provided and is capable of being retained by that person in a manner usable for subsequent reference.

(2) A requirement under law that a person retain an original record is satisfied by the retention of the record in electronic form if there exists a reliable assurance as to the integrity of the record.

(3) For the purposes of subsections (1) and (2),

(a) the criterion for assessing integrity is whether the record has remained complete and unaltered, apart from the introduction of changes that arise in the normal course of communication, storage and display, and

(b) the standard of reliability required must be assessed in view of the purpose for which the record was created and other relevant circumstances.

Requirement to retain a record

9 A requirement under law to retain a record is satisfied by the retention of the record in electronic form if

(a) the record is retained in the format in which it was created, provided or received, or in a format that does not materially change the record,

(b) the record will be accessible in a manner usable for subsequent reference by any person who is entitled to have access to the record or who is authorized to require its production, and

(c) on provision or receipt of the record, the information, if any, that identifies the origin and destination of the record and the date and time when it was sent or received is also retained.

Whether record is capable of being retained

10 A record in electronic form is deemed not to be capable of being retained if the person providing the record inhibits the printing or storage of the record by the recipient.

Signatures

11 (1) If there is a requirement under law for the signature of a person, that requirement is satisfied by an electronic signature.

(2) Subsection (1) does not apply to a signature for a record prescribed, or within a class prescribed, under section 21 (2) (d) unless the proof described in section 21 (2) (d) is present.

Copies

12 If information or a record may be provided in electronic form, a requirement under law for one or more copies of the information or record to be provided to a single addressee at the same time is satisfied by providing a single version in electronic form.

Collection, storage, etc.

13 In the absence of an express provision in an enactment that electronic means may not be used or that electronic means must be used in specified ways, the government may use electronic means to create, store, transfer, distribute, publish or otherwise deal with records or information.

Electronic payments to or by the government of British Columbia

14 (1) A payment that is authorized or required under law to be made to the government may be made in electronic form in a manner specified by the Minister of Finance.

(2) A payment that is authorized or required to be made by the government may be made in electronic form in a manner specified by the Minister of Finance.

Part 3 — Electronic Communication of Information and Records

Formation and operation of contracts

15 (1) Unless the parties agree otherwise, an offer or the acceptance of an offer, or any other matter that is material to the formation or operation of a contract, may be expressed

(a) by means of information or a record in electronic form, or

(b) by an activity in electronic form, including touching or clicking on an appropriately designated icon or place on a computer screen or otherwise communicating electronically in a manner that is intended to express the offer, acceptance or other matter.

(2) A contract is not invalid or unenforceable solely by reason that information or a record in electronic form was used in its formation.

Involvement of electronic agents

16 A contract may be formed by the interaction of an electronic agent and an individual or by the interaction of electronic agents.

Errors that occur while dealing with electronic agents

17 An electronic record created by an individual with an electronic agent of another person is invalid and unenforceable if the individual made a material error in the record and

(a) the electronic agent did not provide the individual with an opportunity to prevent or correct the error,

(b) the individual notifies the other person of the error as soon as practicable after the individual learns of the error and indicates that he or she made an error respecting the electronic record,

(c) the individual takes reasonable steps, including steps that conform to the other person's instructions, to return the consideration received, if any, as a result of the error or, if instructed to do so, to destroy the consideration, and

(d) the individual has not used or received any material benefit or value from the consideration, if any, received from the other person.

Sending or receiving information and records

18 (1) Unless the originator and addressee agree otherwise, information or a record in electronic form is sent when it enters an information system outside the control of the originator or, if the originator and the addressee are in the same information system, if the information or record becomes capable of being retrieved and processed by the addressee.

(2) If information or a record is capable of being retrieved and processed by an addressee, the information or record in electronic form is deemed, unless the contrary is proven, to be received by the addressee

(a) when it enters an information system designated or used by the addressee for the purpose of receiving information or records in electronic form of the type sent, or

(b) if the addressee has not designated or does not use an information system for the purpose of receiving information or records in electronic form of the type sent, on the addressee becoming aware of the information or record in the addressee's information system.

(3) Unless the originator and the addressee agree otherwise, information or a record in electronic form is deemed to be sent from the originator's place of business and is deemed to be received at the addressee's place of business.

(4) For the purposes of subsection (3), if the originator or the addressee has more than one place of business, the place of business is that which has the closest relationship to the underlying transaction to which the information or record in electronic form relates or, if there is no underlying transaction, the principal place of business of the originator or the addressee.

(5) For the purposes of subsection (3), if the originator or the addressee does not have a place of business, the references to "place of business" in subsection (3) are to be read as references to "habitual residence".

Part 4 — Carriage of Goods

Activity related to contracts of carriage of goods

19 This Part applies to an activity respecting a contract of carriage of goods, including, but not limited to, the following:

(a) furnishing the marks, number, quantity or weight of goods;

(b) stating or declaring the nature or value of goods;

(c) issuing a receipt for goods;

(d) confirming that goods have been loaded;

(e) giving instructions to a carrier of goods;

(f) claiming delivery of goods;

(g) authorizing release of goods;

(h) giving notice of loss of, or damage to, goods;

(i) undertaking to deliver goods to a named person or a person authorized to claim delivery;

(j) granting, acquiring, renouncing, surrendering, transferring or negotiating rights in goods;

(k) notifying a person of terms and conditions of a contract of carriage of goods;

(l) giving a notice or statement in connection with the performance of a contract of carriage of goods;

(m) acquiring or transferring rights and obligations under a contract of carriage of goods.

Records

20 (1) Subject to subsection (2), a requirement in law that a matter mentioned in section 19 be carried out in writing or by using a paper record is satisfied if the activity is carried out by using one or more records in electronic form.

(2) If a right is to be granted to or an obligation is to be acquired by one person and no other person and a provision of an enactment requires that, in order to do so, the right or obligation must be conveyed to that person by the transfer or use of a record in writing, that requirement is satisfied if the right or obligation is conveyed through the use of one or more records in electronic form created by a method that gives reliable assurance that the right or obligation has become the right or obligation of that person and no other person.

(3) For the purposes of subsection (2), the standard of reliability required must be assessed in view of the purpose for which the right or obligation was conveyed and any other relevant circumstances, including any relevant agreement.

(4) If one or more records in electronic form are used to accomplish a matter mentioned in section 19 (j) or (m), a record in writing used to effect the activity is not valid unless the use of records in electronic form has been terminated and replaced by the use of records in writing.

(5) A record in writing issued in the circumstances mentioned in subsection (4) must contain a statement of the termination, and the replacement of the records in electronic form by records in writing does not affect the rights or obligations of the parties involved.

(6) If a law is compulsorily applicable to a contract of carriage of goods that is set out in, or is evidenced by, a record in writing, that law is not inapplicable to a contract of carriage of goods that is evidenced by one or more records in electronic form by reason solely that the contract is evidenced by records in electronic form rather than by a record in writing.

Part 5 — Regulations

Power to make regulations

21 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) defining, enlarging or restricting the meaning of a word or expression used in this Act but not defined in this Act;

(b) specifying provisions of or requirements under another enactment to which this Act does not apply;

(c) prescribing records, information or classes of records or information to which this Act, or a provision of this Act, does not apply;

(d) prescribing records or classes of records for which a requirement under law for the signature of a person must be satisfied by an electronic signature and proof that, in view of all the circumstances including any relevant agreement and the time the electronic signature was made,

(i) the electronic signature is reliable for the purpose of identifying the person, and

(ii) the association of the electronic signature with the relevant electronic record is reliable for the purposes for which the electronic record was made;

(e) respecting electronic signatures in addition to matters specified in paragraph (d);

(f) respecting electronic means to be used for the sending, receiving or retaining of information or records in electronic form if an enactment requires a person to send, receive or retain the information or records;

(g) respecting other matters or things that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

Commencement

22 This Act comes into force by regulation of the Lieutenant Governor in Council.

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