

A-Z Guide

Electronic Transactions



Overview

Part 4 of the Contract and Commercial Law Act 2017 facilitates the use of electronic technology by reducing uncertainty about the legal effect of electronic communication, both as a form and as a method of communicating. To assist this, the Act also stipulates that certain paper-based legal requirements may be met by using electronic technology.

The Act provides rules, which may be contracted out of. They specify when electronic transactions are deemed to have been sent and received and, where electronic transactions are deemed to have been sent from and received. It applies to every enactment passed either before or after the Act came into force, other than those expressly excluded.

It does not apply to enactments which require a use of particular electronic technology, kind of data storage device, or electronic communication. It does not apply to certain enactments relating to electoral matters, specific provisions of existing Acts which have been identified as specifying paper-based requirements that should not be met by electronic means, legal requirements in relation to certain types of notice or information or document where there is no functional equivalent for the paper-based requirement in the statute, and provisions of legislation relating to certain courts and tribunals.

The Act only applies to statutory requirements; transactions governed by the common law (such as the formation of contracts) are not changed by this Act. Furthermore, no person, solely by virtue of this Act, can be required to use, provide, or accept information in electronic form without that person's consent.



The definition of “electronic” includes electrical, digital, magnetic, optical, electromagnetic, biometric, and photonic; and the definition of “information” includes information (whether in its original form or otherwise) that is in the form of a document, a signature, a seal, data, text, images, sound, or speech. The definition of “electronic signature” in relation to information in the electronic form, means a method used to identify a person and to indicate that person’s approval of that information. This definition is wide and makes it clear that it is the “method” and not the electronic signature itself that is to be used to signify the signatory.

This Act will impact on the employment relationship in respect of how certain processes are completed.

Examples of where this Act may (not obligatory) apply in respect of employment:

- Employment Relations Act 2000;
- Union meetings (the Act does not prescribe that notice must be given in writing);
- Requests for information in bargaining for collective agreements;
- Initiation of bargaining for a collective agreement;
- Provision of collective agreements in writing;
- Provision of individual employment agreements in writing;
- Provision of probationary arrangements in employment agreements;
- Union notification to employer of maximum number of days of employment relations education leave calculated (the Act does not prescribe that this notice must be given in writing, but the implication is that it must be);
- Notice of strikes in essential services;
- Notice of lockouts in essential services;
- Statement of reasons for a dismissal;
- Wages and time records;
- Agreed terms of settlements;
- Lodging of applications in the Employment Relations Authority (not including any accompanying documents that is given on oath or affirmation);
- Objections to demand notices; and
- Labour Inspector’s notice to compile a wages and time record.

In *Canterbury District Health Board v National Union of Public Employees* (Unreported) CC 1/02; 4 January 2002, the Employment Court held that the Union’s strike notice was lawful where the union had both a standing and recent invitation to use the facsimile number given for important notices. It was not the fault of the Union or any employee desiring to strike as it was the employer who claimed that they did not receive adequate notice when in fact it was received at one of its facsimile addresses.

The Electronic Transactions Act 2015 also applies to:

- Health and Safety at Work Act 2015
 - Registers of accidents and serious harm
 - Notice to employers or other persons in charge of places of work from Inspectors of the retention or removal and intention to return or destroy, of samples, materials, substances or things.
 - Notices to employees from Departmental Health Practitioners requiring medical examinations
 - Notices to employees from Departmental Health Practitioners suspending them
 - Hazard Notices
 - Notification of interest in knowing of enforcement action
 - Infringement notices
 - Inspectors notices to territorial authorities
- Health and Safety in Employment Regulations 1995
 - Notification of notifiable work
 - Certificates of Competence and the application for these



- Employee's notice to employer in relation to return to work
 - Terms and conditions of temporary employee employed to replace employee on parental leave
 - Statements of complaint to the Employment Relations Authority
 - Objections to demand notices
 - Applications for parental leave payment
 - Applications for transfer of parental leave payment
 - Notices about early return to work
- Wages Protection Act 1983
 - Employee's consent for employer to make deductions from wages
 - Employee's request for employer to make deductions from wages
 - Employee's consent as to the manner of payment of wages
 - Employee's request as to the manner of payment of wages
 - Employee's withdrawal or variance as to the manner of payment of wages
- Privacy Act 2020
 - Complaints to the Privacy Commissioner alleging an interference with the privacy of an individual (these may be made orally also)

Remember

- **Always call AdviceLine to check you have the latest guide**
- **Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your fact situation.**
- **Use our AdviceLine employment advisors as a sounding board to test your views.**
- **Get one of our consultants to draft an agreement template that's tailor-made for your business.**

This guide is not comprehensive and should not be used as a substitute for professional advice.

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