ELECTRONIC TRANSACTIONS BILL, 2011

List of amendments made in the Senate on Tuesday April 05, 2011

First Column Clause	Second Column Extent of Amendment
2	A. Delete the definitions of "certificate" and "certification service provider";
	B. In the definition of "Electronic Authentication Service Provider" delete the words "and includes Certification Service Providers".
	C. In paragraph (g) of the definition of "public body" delete the word "and" and substitute the word "or".
5(a)	Delete the words "the appropriate use of";
(c)	Delete the words "authorities" and "agencies" and replace with the word "bodies" wherever they occur;
(d)	Insert after the word ";" the word "and";
7(1)	Delete all the words after the word "retains" and replace with the following - " (a) documents; (b) records; or (c) information, to use, provide, accept or retain these in electronic form.".
(2)	In line 2, delete the word "in" and substitute the word "to".
9	In line 1 insert after the word "information" a comma.
16	In line 3, delete the word "message" and substitute the words "document, record or other communication".
19	In subparagraph (b) at line 4, insert after the words "affect its" the words "legal effect, validity or".
22(1)	Insert after the word "concluded" the words "or a transaction undertaken".

26   (i)   In line 2, delete the words "information or a record in electronic form or";

(ii)   Delete the word "address" and replace with the words "place of business" wherever it occurs.

(iii)   In the Marginal note delete the words "information or record" and substitute the words "data message"

30   Delete all the words occurring after the word "integrity" and replace with the words "or conforms with the standard which the parties have agreed to by contract."

31(1)   A.   In subparagraph (c) delete the word "and";

B.   In subparagraph (d) delete the words "detectable." and replace with the words "detectable; and"

C.   insert after paragraph (d) the following:

"(e) such other criteria as may be prescribed by regulations.".

D.   Insert after subclause (2) the following:

"   (3) The Electronic Authentication Products referred to in the Schedule are the products which can be used to validate an electronic signature under subsection (1);

(4)   The Minister may by Order amend the Schedule.".

33   A.   In subclause (1) –

(a)   delete the words "the Minister or such authority" and substitute the word "an authority";

(b)   delete the words "prescribed by the Minister" and replace with the words "prescribed under this Act";

B.   By inserting after subclause (2) the following:

"   (3)   An Order under subsection (1) shall prescribe –

(a)   the powers and functions of the designated authority; and

(b)   any other matter relating to the designated authority which the Minister deems necessary for the purposes of this Part.".

34   A.   In subclause (1) –

          (a)   insert after the word "Provider" the words "(hereinafter referred to as "the applicant")";

          (b)   delete the words "the Minister or";

        B.   In subclause (2) delete subparagraph (b) and replace with the following:

          "(b)   proof of accreditation of its operations."

        C.   Delete subclause (3) and substitute the following:

          " (3)   Where an applicant has valid prior accreditation from another recognised jurisdiction, proof of accreditation shall be information relating to –

          (a)   the name and address of the accreditation authority;

          (b)   the period of validity of the accreditation; and

          (c)   any other information required by regulations as may be prescribed.".

        D.   Delete subclause (4) and replace with the following:

          " (4) Where an applicant has no valid prior accreditation, he shall indicate same to the designated authority who shall require the applicant to submit to an audit of his operations and systems to ensure compliance with the requirements of section 35 and any other standards which the Minister may prescribe by regulations.".

        E.   Delete subclause (5) and replace with the following:

          " (5) Where the designated authority is satisfied that the applicant has met the requirements of this Act the designated authority may issue a notice of accreditation to the applicant.".

        F.   Insert after subclause (5) the following:

          " (6)   The Minister may make Regulations specifying the procedures for registration and accreditation.".

36   A.   In subclause (1) –

      (a)   delete the words "the Minister or" wherever it occurs;

      (b)   delete the words ""previously been accredited" and replace with the words "valid prior accreditation";

      (c)   delete the words "35" and substitute with the words "34"; and

    B.   In subclause (2) –

      (a)   delete the words "the Minister or" wherever they occur;

      (b)   insert before the word "prior" the word "valid".

37   Delete the words "as a qualified electronic authentication product" occurring after the word "classes of qualified electronic authentication products".

38   Delete the words "Minister or the".

39   Delete the words "the Minister or".

40   A.   In subclause (1) delete the words "Minister or the".

    B.   In subclause (2) delete the word "Minister" and replace with the words "designated authority" and delete the word "he" and replace with the word "it".

41   Delete the words "the Minister or" wherever it occurs.

43   A.   Delete the words "the Minister or" appearing in the chapeau.

    B.   In subparagraph (a) delete the word "registration" and replace with the word "accreditation".

    C.   In subparagraph (d) delete the word "36" and replace with the word "35";

    D.   In subparagraph (e) delete the words "the Minister or".

    E.   In the Marginal Note, delete the word "Minister" and replace with the words "designated authority".

49   A.   Delete the words "Minister or the"

            B.   Delete the word "order" and replace with the word "require";

            C.   Delete all the words after the word "40".

50   A.   In subclause (2) delete the words "ministerial direction,".

            B.   Insert the following new subclause (4):

> "(4) An intermediary or a telecommunications service provider, during an audit, shall not be liable under the Copyright Act in respect of –
>
> > (a) the infringement of copyright in any work or other subject matter in which copyright subsist; or
> >
> > (b) the unauthorised use of any public performance, the duration of which the copyright period has not expired.
>
> For the purposes of this section, "public performance" has the same meaning as in the Copyright Act.".

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51   A.   In subclause (1)(a)

> (i) insert after the word "remove" the words "and secure".
>
> (ii) insert after the word "law" the words "or in accordance with established codes of conduct";

            B.   In subclause (1)(b) –

> (a) by inserting before the word "notify" the words "in the case of criminal liability,"
>
> (b) delete the words "the Minister or such person designated by the Minister ("the designated person") and";

C. Delete subclauses (2) and (3) and renumber subclauses (4) and (5) as (2) and (3) respectively.

D. In subclause (2) as renumbered:

(i) In line 3, insert after the word "otherwise" a comma;
(ii) In line 5, insert after the word "services" a comma;
(iii) In line 6, insert after the word "record" a comma and delete the comma occurring after the word "action";
(iv) In line 7, insert after the word "takes" and the words "in good faith" a comma;
(v) delete the words ", or as directed by the Minister or designated person under";

E. In subclause (3) as renumbered delete the words "subsections (1) to (3) and substitute the words "subsection (1)".

52 A. Insert the following new subclause (1):

"(1) The Minister may develop codes of conduct and standards for intermediaries and telecommunications service providers for the purposes of this Act."

B. Renumber existing subclauses (1) and (2) as subclauses (2) and (3).

53(2) Delete the word "authority" and replace with the word "body".

(4) Delete the word "authority" and replace with the word "body".

58 In subclause (1), delete the word "based" wherever it occurs.

62 In line 3, delete the words ", acquiesced in" occurring after the words "assented to".

63(3) In line 3, delete the words "up to" occurring after the words " a fine" and substitute the words "not exceeding".

65   A.   In subclause (a):

            (i)   delete the words "by the Minister";

            (ii)   insert the word "or" after the word "Act ;" ;

(iii)   In subclause (b) –

               a.   insert after the word "upon" the word "an";

               b.   Delete the words "by the Minister";

               c.   Insert a comma after the word "Act" and bring out remaining words to the margin.

Insertion of Schedule   Insert after clause 66 the following Schedule:

"   SCHEDULE

                       (Section 31)

ELECTRONIC AUTHENTICATION PRODUCTS USED TO VALIDATE ELECTRONIC SIGNATURES

Electronic certificates

April 08, 2011