

2014-03-17

OBJECTS AND REASONS

This Bill would amend the *Electronic Transactions Act*, Cap. 308B to make provision for the improvement of the administration of the Act.

Arrangement of Sections

1. Short title
2. Amendment of section 2 of Cap. 308B
3. Amendment of Cap. 308B
4. Amendment of Cap. 308B
5. Amendment of section 16 of Cap. 308B
6. Amendment of Cap. 308B
7. Amendment of Cap. 308B
8. Amendment of section 20 of Cap. 308B
9. Amendment of section 24 of Cap. 308B

BARBADOS

A Bill entitled

An Act to amend the *Electronic Transactions Act* to make provision for the improvement of the administration of the Act.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Electronic Transactions (Amendment) Act, 2014*.

Amendment of section 2 of Cap. 308B

2. *Section 2 of the Electronic Transactions Act, in this Act referred to as the principal Act, is amended by*

- (a) deleting the definitions of “accredited certificate”, “authorized certification service provider” and “certification service provider”; and*
- (b) inserting, in the appropriate alphabetical order, the following definitions:*

“accredited certificate” means an electronic record that

- (a) associates a signature verification device to a person;*
- (b) confirms the identity of that person; and*
- (c) is issued by a certification service provider;*

“certification service provider” means a person who

- (a) issues identity certificates for the purposes of electronic signatures or provides other services to the public related to electronic signatures and associates a signature verification device to a person; and*
- (b) is licensed in accordance with section 18 to provide accredited certificates;*

“encryption” means the scrambling of a wire communication, electronic communications or electronically stored information using mathematical formulae or algorithms in order to preserve the confidentiality, integrity or authenticity of such communication or information and to prevent unauthorised recipients from altering such communication or information;

“Supervisor” means the Supervisor of Certification Authorities appointed by the Minister under section 18A;”.

Amendment of Cap. 308B

3. *The principal Act is amended by deleting the words “authorized certification service provider” wherever they may appear in the Act and substituting the words “certification service provider”.*

Amendment of Cap. 308B

4. *The principal Act is amended by inserting immediately after section 12, the following new section:*

“Mistakes in partly automated transactions

12A. An electronic transaction between an individual and another person’s automated source of information has no legal effect where

- (a) the individual makes a material error in the electronic information or an electronic document used in the transaction;
- (b) the automated source of information does not give the individual an opportunity to prevent or correct the error;
- (c) on becoming aware of the error, the individual promptly notifies the other person; and
- (d) in a case where consideration is received as a result of the error, the individual
 - (i) returns or destroys the consideration in accordance with the other person’s instructions; or
 - (ii) where there are no instructions from the other person, deals with the consideration in a reasonable manner and does not benefit materially by receiving the consideration.”.

Amendment of section 16 of Cap. 308B

5. *Section 16 of the principal Act is amended by deleting subsection (2) (b) and substituting the following:*

“(b) where the addressee has not designated an information processing system, receipt occurs when an electronic record of an information-processing system of the addressee is entered or is otherwise retrieved by or comes to the attention of the addressee.”

Amendment of Cap. 308B

6. *The principal Act is amended by inserting immediately after section 16, the following new section:*

“Consumer protection

16A.(1) A person who uses electronic communications to sell goods or services to consumers shall provide accurate, clear and accessible information about that person with respect to the following matters:

- (a) the legal name, principal mailing address and a telephone number or an electronic means of contact;
- (b) a prompt, easy and effective means of communicating with consumers; and
- (c) sufficient and accurate information to facilitate service of legal process.

(2) A person who uses electronic communications to sell goods or services to consumers shall provide

- (a) accurate and accessible information describing the goods or services offered in a manner that enables consumers to make an informed decision about the proposed transaction; and

- (b) information about the terms, conditions and costs associated with a transaction including
 - (i) the terms, conditions and methods of payments; and
 - (ii) the details of and conditions related to withdrawals, termination, return, exchange, cancellation and refund policy information.”.

Amendment of Cap. 308B

7. *The principal Act is amended by deleting section 18 and substituting the following new sections as sections 18 and 18A:*

“Licence to operate as a certification service provider

18.(1) A person who seeks to operate as a certification service provider shall apply to the Minister for a licence for the purpose in the prescribed manner.

(2) A person who operates as a certification service provider without a licence to do so, is guilty of an offence and is liable on indictment to a fine of \$20 000 or to a term of imprisonment of 12 months or to both.

Supervision of certification authorities

18A.(1) The Minister shall appoint a Supervisor of Certification Authorities for the purposes of this Act and, in particular for the purposes of advising the Minister on issues related to licensing and for monitoring and overseeing the activities of certification authorities.

(2) The Supervisor shall maintain a publicly accessible database containing a certification authority disclosure record for each licensed certification authority which shall contain all the particulars required under the regulations made under this Act.

(3) In the application of the provisions of this Act to certificates issued by the Supervisor and digital signatures verified by reference to those certificates, the Supervisor shall be deemed to be a licensed certification authority.”.

Amendment of section 20 of Cap. 308B

8. *Section 20(3) of the principal Act is amended in paragraph (b) by deleting the word “damages” appearing in the penultimate line thereof and substituting the word “damage”.*

Amendment of section 24 of Cap. 308B

9. *Section 24(2) of the principal Act is amended by deleting the word “may” appearing in the second line thereof and substituting the word “shall”.*

Read three times and passed the House of Assembly this
day of _____, 2014.

Speaker

Read three times and passed the Senate this _____ day of
, 2014.

President