NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
46TH CONSTITUTIONAL REGULAR SESSION, 2025

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

ELECTRONIC TRANSACTIONS ACT 2025

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ELECTRONIC TRANSACTIONS ACT 2025

AN ACT to establish an enabling framework to recognize legal validity and equivalence and promote the use of electronic transactions, signatures, and records for public, commercial, and non-commercial purposes.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

§101. Short title.

This Act may be cited as the Electronic Transactions Act 2025.

§102. Purpose.

The purpose of this Act is to establish an enabling legal framework for the use of electronic transactions, electronic signatures, and electronic records in the Republic of the Marshall Islands in order to:

(a) recognize the validity of and legal equivalence between electronic and paper-based transactions, signatures, and records;

(b) provide legal certainty for the use of electronic transactions, electronic signatures, and electronic records;

(c) promote electronic government services between citizens and public bodies and data sharing between public bodies;

(d) facilitate electronic commerce;

(e) enhance public confidence and trust in the integrity, security, and reliability of electronic transactions, electronic signatures, and electronic records; and

(f) provide mechanisms for secure and trustworthy electronic transactions, electronic signatures, and electronic records.

§103. Application.

(1) This Act applies to:

(a) the use of electronic transactions, electronic signatures, and electronic records in or affecting the Republic of the Marshall Islands; and

(b) the use of electronic transactions, electronic signatures, and electronic records by public bodies in the Republic of the Marshall Islands.

(2) This Act neither requires nor prohibits the use of electronic transactions, electronic signatures, or electronic records.

§104. Exclusions.

(1) This Act does not apply where an electronic transaction, electronic signature, or electronic record:

(a) is under the remit of the national judicial or legislative branches, unless these branches opt in to the framework established under this Act;

(b) involves the creation, execution or revocation of a will, codicil, or testamentary trust; or

(c) involves the conveyance of real property or the transfer of any interest in real property.

(2) The competent authority may issue rules or regulations to amend the exclusions set forth in subsections 1(b) and 1(c) or establish additional exclusions, subject to consultation in accordance with the Administrative Procedure Act.

(3) Any exclusion identified in this section or established via regulation shall be narrowly construed to facilitate legal equivalence between electronic and paper-based transactions, signatures, and records.

§105. Interpretation.

In this Act, unless context otherwise requires:

(d) 'competent authority' means MTCIT;

(e) 'electronic' means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(f) 'electronic record' means any information that is created, generated, sent, communicated, received, or stored by electronic means;

(g) 'electronic signature' means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by an individual with the intent to sign the record;

(h) 'electronic transaction' means an electronic action or set of actions relating to the conduct of government, business, consumer, or commercial affairs between two or more persons;

(i) 'electronic transferable record' means an electronic document or instrument that entitles the holder to claim the performance of an obligation and to transfer the right to performance of the obligation;

(j) 'information system' means a system for generating, sending, receiving, storing, or otherwise processing electronic records;

(k) 'information' means data, text, images, sounds, codes, computer programs, software, databases, or similar;

(l) 'MTCIT' means the Ministry for Transport, Communications and Information Technologies, or its successor;

(m) 'originator' means a person by whom, or on whose behalf, the electronic transaction, electronic signature, or electronic record has been sent or generated prior to transmission or storage;

(n) 'person' means an individual, public body, commercial, or non-commercial organization, or other legal or commercial entity;

(o) 'public body' means any ministry, department, division, bureau, office, agency, or other instrumentality of the Government of the Republic of the Marshall islands;

(p) 'recipient' means a person who is intended by the originator to receive the electronic transaction, electronic signature, or electronic record;

PART II –ADMINISTRATION

§106. Administration.

The MTCIT is designated as the competent authority responsible for administering this Act and may designate an internal office or division to oversee the implementation of the Act.

§107. Duties and powers of the MTCIT.

The MTCIT shall have the following powers under this Act:

(a) develop and implement guidance and policies regarding the legal equivalence and recognition of electronic transactions, electronic signatures, and electronic records for use by public bodies and any persons in the Republic of the Marshall Islands;

(b) develop and implement education and awareness-raising initiatives for public bodies and other persons regarding the functions and implementation of this Act;

(c) coordinate and consult with other public bodies or persons to facilitate electronic exchange of information among public bodies under this Act and in line with any other law, including laws regarding personal data protection, cybercrime, and cybersecurity;

(d) engage and enter into agreements with third parties, including foreign authorities and international organizations, for capacity building and coordination to support effective implementation of this Act;

(e) make any rules or regulations required to implement this Act; and

(f) take any other actions and make decisions under this Act as required or that are necessary for the MTCIT to effectively implement this Act.

PART III –LEGAL RECOGNITION OF ELECTRONIC TRANSACTIONS, ELECTRONIC SIGNATURES, AND ELECTRONIC RECORDS

§108. Legal recognition.

Unless expressly exempt, transactions, signatures, and records will not be denied legal effect, validity, or enforceability solely on the basis that they are in electronic form.

§109. Requirement for writing.

A legal requirement for information to be written, in writing, to be presented in writing, or that provides for certain consequences if it is not in writing, is satisfied by an electronic transaction, electronic signature, or electronic record, in accordance with this Act.

§110. Original form.

(1) If a document, record, or any other information is required by law to be presented or retained in its original form, or provides for certain consequences if it is not, such requirement is met by an electronic record if:

(a) there exists a reliable assurance as to the integrity of the information contained in the record from the time it was first generated in its final form as an electronic record or otherwise; and

(b) in such cases where it is required that information be presented, that information is capable of being accurately represented to the person to whom it is to be presented.

(2) Subsection (1) applies whether the requirement for the information to be presented or retained in its original form is in the form of an obligation or the law provides consequences if it is not presented or retained in its original form.

(3) For the purposes of subsection (1)(a):

(a) the criteria for assessing integrity is whether the information has remained complete and unaltered, notwithstanding the addition of any endorsement and any change that arises in the normal course of communication, storage, and display; and

(b) the standard of reliability required is to be assessed in light of:

(i) the purpose for which the information was generated; and

(ii) all relevant circumstances.

S§111. Determining location of parties.

(1) For purposes of this Act, the location of a party to an electronic transaction, electronic signature, or electronic record will be the party's place of business or habitual residence.

(2) If a party to an electronic transaction, electronic signature, or electronic record has more than one place of business or habitual residence, then the location of the party is that which has the closest relationship to the relevant electronic transaction, electronic signature, or electronic record.

§112. Attribution of electronic transactions, electronic signatures, and electronic records.

An electronic transaction, electronic signature, or electronic record is that of the originator if it was sent by:

(a) the originator directly;

(b) a person with authority to act on behalf of the originator for such electronic transaction, electronic signature, or electronic record; or

(c) an information system programmed by, or on behalf of, the originator to operate automatically.

§113. Transmission and receipt of electronic transactions, electronic signatures, and electronic records.

(1) Unless otherwise agreed between the originator and the recipient of an electronic transaction, electronic signature, or electronic record, the transmission of such electronic transaction, electronic signature, or electronic record occurs when it enters an information system outside the control of the originator or of an authorized person who sent the electronic transaction, electronic signature, or electronic record on behalf of the originator.

(2) Unless otherwise agreed between the originator and the recipient of an electronic transaction, electronic signature, or electronic record, the time of receipt of such electronic transaction, electronic signature, or electronic record occurs when it enters the recipient's information system.

§114. Retention of electronic records.

Any law requiring a document, record, or any form of information to be retained is met by an electronic record, provided that:

(a) the information contained in the electronic record is accessible for later use;

(b) the information contained in the electronic record is in the format by which it was generated, transmitted, or received;

(c) the information contained in the electronic record is in a format that accurately represents the information as it was generated, transmitted, or received; and

(d) any retention of such information enables the identification of the origin and destination of an electronic record and the date and time when it was transmitted or received.

§115. Admissibility and evidentiary weight of electronic transactions, electronic signatures, and electronic records.

(1) An electronic transaction, electronic signature, or electronic record cannot be denied admissibility in any legal proceeding solely on the basis that it is electronic form.

(2) Information in the form of an electronic transaction, electronic signature, or electronic record shall be given due evidential weight, and for this purpose, regard must be on the following:

(a) the reliability of the manner in which the electronic record was generated, stored, or communicated;

(b) the reliability of the manner in which the integrity of the information was maintained;

(c) the manner in which its originator was identified; and

(d) any other relevant factor.

PART IV – ELECTRONIC CONTRACTS

§116. Formation and validity of electronic contracts.

Unless the parties to a contract otherwise agree, an offer or acceptance of an offer as it relates to contract formation may be expressed through an electronic communication and such a contract will not be denied legal effect,

validity, or enforceability solely on the basis that an electronic transaction, electronic signature, or electronic record was used for that purpose.

§117. Invitation to make offers.

A proposal to conclude a contract may be made through one or more electronic transactions, electronic signatures, or electronic records and will not be denied legal effect, validity, or enforceability solely on the basis that an electronic transaction, electronic signature, or electronic record was used for that purpose.

PART V – ELECTRONIC SIGNATURES

§118. Validity of electronic signatures.

(1) Where the signature of an individual is required in relation to an electronic transaction or electronic record, the requirement is satisfied by an electronic signature.

(2) To be valid under subsection (1), at a minimum, the electronic signature must:

(a) be incorporated into or otherwise logically associated with an electronic transaction or electronic record; and

(b) purport to be used by the individual creating it to sign.

§119. Recognition of foreign electronic signatures.

An electronic signature issued, created, or used outside of the Republic of the Marshall Islands will have the same legal effect in the Republic of the Marshall Islands.

PART VI – ELECTRONIC TRANSFERABLE RECORDS

§120. Application to transferable records.

This Act does not affect the application of any other law governing a transferable document or instrument except to the extent that this Act provides legal equivalence between paper and electronic transferable records.

§121. Transferable documents or instruments.

A requirement for a transferable document or instrument will be satisfied by an electronic record, provided that:

(a) it contains the information needed in a transferable document or instrument;

(b) a reliable method is used to identify it as an electronic transferable record;

(c) it renders the electronic record capable of being subject to control from its creation until it ceases to have validity; and

(d) it retains the integrity of the electronic record.

§122. Control over transferable records.

(1) Where the law requires or permits the possession of a transferable document or instrument, an electronic transferable record meets such requirements, provided that a reliable method is used to establish exclusive control of that electronic transferable record by a person and identify the person who has control.

(2) For the purpose of subsection (1), a reliable method to establish exclusive control of an electronic transferable record includes, but is not limited to:

(a) the use of security of hardware and software;

(b) the ability to prevent unauthorized access to and use of the information system;

(c) any applicable industry standard; or

(d) any other relevant circumstances that provide evidence to establish exclusive control of the electronic transferable record.

§123. Non-discrimination of foreign electronic transferable records.

An electronic transferable record shall not be denied legal effect, validity, or enforceability solely on the basis that it was issued or used outside of the Republic of the Marshall Islands.

PART VII –ELECTRONIC EXCHANGES WITH PUBLIC BODIES

§124. Authorization for public bodies to use electronic transactions, electronic signatures, and electronic records.

(1) A public body may accept filings of documents or obtain information using electronic transactions, electronic signatures, and electronic records to carry out its functions.

(2) Electronic transactions, electronic signatures, and electronic records referred to in subsection (1) may be accepted for purposes that include, but are not limited to:

(a) issuance of permits, licenses, or other forms of approvals; and

(b) payment of fees, charges, taxes, or other levies.

§125. Specifications of public bodies.

Where a public body carries out any function referred to in section 24 by means of electronic transactions, electronic signatures, or electronic records, the MTCIT may prescribe specifications that include, but are not limited to:

(a) the manner and format for how such electronic transactions, electronic signatures, and electronic records must be generated, transmitted, received, or stored;

(b) the type of electronic transaction, electronic signature, or electronic record that must be used, including the manner and format;

(c) the appropriate control processes and procedures to be used to ensure adequate integrity, security, and confidentiality of the electronic transaction, electronic signature, or electronic record; and

(d) any other required attributes to provide legal equivalence between electronic and paper transactions, signatures, and records.

§126. Voluntary basis.

Nothing in this Act compels, by itself, any public body to generate, transmit, or receive an electronic transaction, electronic signature, or electronic record unless otherwise required by law.

PARTVIII – MISCELLANEOUS

§127. Regulations, policies and guidance.

The competent authority may promulgate regulations, guidance and adopt policies to implement, interpret, and clarify the provisions of this Act.

PART IX-OFFENSES AND PENALTIES

§128. Unauthorized Use of Electronic Signatures.

(1) A person commits an offense if they knowingly forge, alter, or misuse an electronic signature with intent to defraud or mislead another person.

(2) A person found guilty of an offense under this section shall be liable upon conviction to a fine not exceeding 10,000, or imprisonment for a term not exceeding five (5) years , or both.

§129. Fraudulent Electronic Transactions.

(1) A person commits an offense if they knowingly engage in an electronic transaction with the intent to commit fraud, obtain unauthorized access to an electronic system, or cause harm to another person or entity.

(2) A person found guilty of an offense under this section shall be liable upon conviction to a fine not exceeding $10,000, or imprisonment for a term not exceeding seven (7) years, or both.

§130. Unauthorized Access and Interference.

(1) A person commits an offense if they intentionally access, interfere with, or disrupt an electronic system, database, or network used for electronic transactions without authorization.

(2) A person found guilty of an offense under this section shall be liable upon conviction to a fine not exceeding $15,000, or imprisonment for a term not exceeding five (5) years, or both.

§131. Failure to Retain or Secure Electronic Records.

(1) A person who, without reasonable excuse, fails to comply with the electronic record retention requirements under this Act commits an offense.

(2) A person found guilty of an offense under this section shall be liable upon conviction to a fine not exceeding $5,000 for each violation.

§132. Corporate Liability.

A corporation may be convicted of the commission of an offense under this Act in accordance with the requirements of section 2.07(1) of the Criminal Code.

§133. Regulations on Additional Offenses.

(1) The competent authority may issue regulations to establish additional offenses and penalties necessary for the effective enforcement of this Act.

§134. Effective date.

This Act will take effect on the date of certification in accordance with Article IV, section 21 of the Constitution.

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: 40ND1 was passed by the Nitijela of the Republic of the Marshall Islands on the 7th day of April 2025; and

2. That I am satisfied that Nitijela Bill No: 40ND1 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 21st day of April 2025.

Brenson S. Wase
Speaker
Nitijela of the Marshall Islands

Attest:

Morean S. Watak
Clerk
Nitijela of the Marshall Islands