

ELECTRONIC TRANSACTIONS ACT,  
B.E. 2544 (2001)<sup>1</sup>

---

BHUMIBOL ADULYADEJ, REX.

Given on the 2nd Day of December B.E. 2544.

Being the 56th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on electronic transactions;

Whereas it is aware that this Act contains certain provisions relating to the restriction of rights and liberties of the people, in respect of which section 29 in conjunction with section 50 of the Constitution of the Kingdom of Thailand so permit by virtue of the provisions of law;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows.

**Section 1.** This Act is called the “Electronic Transactions Act, B.E. 2544 (2001)”.

**Section 2.** This Act shall come into force after one hundred twenty days as from the date of its publication in the Government Gazette.<sup>2</sup>

**Section 3.** This Act shall apply to civil and commercial transactions made by the use of data messages, except the transactions prescribed by a Royal Decree as being exempted from the application of this Act in whole or in part.

The provisions of paragraph one have no prejudice to any law or by-law enacted for consumer protection.

This Act shall apply to transactions made in the operation of the State affairs as prescribed in Chapter 4.

**Section 4.** In this Act:  
“transaction” means any act related to a civil and commercial activity or in the operation of the State affairs as prescribed in Chapter 4;

---

<sup>1</sup> Translated by Associate Professor Dr. Pinai Nanakorn under contract for the Office of the Council of State of Thailand's Law for ASEAN project.--Approved version – but subject to final authorisation.

<sup>2</sup> Published in the Government Gazette Vol. 118, Part 112a, p. 12, dated 4th December 2001.

“electronics” means the application of an electron-based means, an electrical means, an electromagnetic means or any other means of a similar nature and shall include the application of an optical means, a magnetic means or a device involving the application of the aforesaid means;

“electronic transaction” means a transaction in which an electronic means is used in whole or in part;

“information” means an incident or fact, whether expressed in the form of a letter, number, sound or image or in any other form capable of connotation by itself or through any means;

“data message” means information generated, sent, received, stored or processed by an electronic means such as electronic data interchange, electronic mail, telegramme, telex or facsimile;

“electronic signature” means letters, characters, numbers, sound or any other symbols created in an electronic form and affixed to a data message for establishing the association of a particular person with the data message for the purposes of identifying the signatory in relation to such data message and indicating that such person has approved the information contained in that data message;

“information system” means a system for processing with an aid of an electronic device for generating, sending, receiving, storing or processing data messages;

“electronic data interchange” means the dispatch or receipt of information by an electronic means from computers to computers using an agreed standard;

“originator” means a person who is a sender or generator of the data message prior to its storage for transmission in accordance with the method designated by such person, whether the data message is sent or generated by such person or is sent or generated in the name of or on behalf of such person, but does not include an intermediary with respect to that data message;

“addressee” means a person to whom the originator intends to send the data message and who receives such data message, but does not include an intermediary with respect to that data message;

“intermediary” means a person who, on behalf of another person, sends, receives or stores a particular data message as well as provides other services with respect to that data message;

“certificate” means a data message or any other record confirming the link between the signatory and signature creation data;

“signatory” means a person that holds signature creation data and creates the electronic signature on his behalf or on behalf of any other person;

“relying party” means a person that may act on the basis of a certificate or an electronic signature;

“State agency” means a Ministry, Sub-ministry, Department, any other Government agency called by any other name and ascribed the status as a Department, a provincial administration, a local administration and a State enterprise established by an Act or a Royal Decree and shall include a juristic person, a group of persons or a person having the powers and duties to operate State affairs in any matter whatsoever;

“Commission” means the Electronic Transactions Commission; and

“Minister” means the Minister having charge and control of the execution of this Act.

**Section 5.** The provisions of section 13 to section 24 and the provisions of section 26 to section 31 may be otherwise agreed.

**Section 6.** The Prime Minister shall have charge and control of the execution of this Act.

#### CHAPTER I ELECTRONIC TRANSACTIONS

---

**Section 7.** Information shall not be denied legal effect and enforceability solely on the ground that it is in the form of a data message.

**Section 8.** Subject to the provisions of section 9, in the case where the law requires that any transaction be made in writing or evidenced by writing or supported by a document which must be produced, if the information is generated in the form of a data message which is accessible and usable for subsequent reference without its meaning being altered, it shall be deemed that such information is already made in writing, evidenced by writing or supported by the produced document.

Where the law requires a stamp duty to be affixed, if payment has instead been made or any other action has been taken by an electronic means under the rules and procedure prescribed and published by a State agency concerned, it is deemed that the writing, written evidence or document which is in essence a legal instrument has been duly affixed with a stamp duty and that such stamp duty has been marked under that particular law. For this purpose, in prescribing the rules and procedure by such State agency, the Commission may determine a framework and guidance to be relied on as a general standard.<sup>2</sup>

---

<sup>2</sup> Section 8 paragraph two is added by the Electronic Transactions Act (No. 2), B.E. 2551 (2008).

**Section 9.** In the case where a person is to enter a signature in any writing, it shall be deemed that a data message in question bears a signature if:

(1) a method is used which is capable of identifying the signatory and indicating that the signatory has approved the information contained in the data message as being his own; and

(2) such method is as reliable as was appropriate for the purpose for which the data message was generated or sent, having regard to surrounding circumstances or an agreement between the parties.

In determining a reliable method under (2), regard shall be had to:

a. the security and strictness of the use of methods or equipment in the identification of persons, the availability of alternative methods of identification of persons, signature requirements set forth in the law, the security level of the use of the electronic signature, the compliance with authentication procedures set forth by intermediaries, the degree of acceptance or non-acceptance of the method of identification of persons in making transactions and the method of identification of persons at the time of making the transaction and the communication;

b. the nature, kind and size of the transaction, the number of occasions on which or the frequency at which transactions take place, trade customs or practice and the importance and the value of the transaction made; or

c. the strictness of communication systems.<sup>3</sup>

The provisions of paragraph one shall apply *mutatis mutandis* to the affixing of seals of juristic persons by an electronic means.<sup>4</sup>

**Section 10.** In the case where the law requires that any information be presented or retained in its original form as an original document, if the presentation or retention is made in the form of a data message in accordance with the following rules, it shall be deemed as the presentation or retention of the original document under the law:

(1) a reliable method is used with that data message for assuring the integrity of the information from the time when it was generated in its final form; and

(2) the information is capable of being subsequently displayed.

The consideration of the integrity of the information under (1) shall be made by having regard to its completeness and absence of alteration, apart from any additional endorsement or recordation or any change which may arise in the normal course of

---

<sup>3</sup> Section 9 paragraph two is added by the Electronic Transactions Act (No. 2), B.E. 2551 (2008).

<sup>4</sup> Section 9 paragraph three is added by the Electronic Transactions Act (No. 2), B.E. 2551 (2008).

communication, storage or display of the information, which does not affect the integrity of that information.

In determining the reliability of the method used for assuring the integrity of the information under (1), regard shall be had to all the relevant circumstances, including the purposes for which the information was generated.

In the case of a printout of the data message under paragraph one for the purpose of reference of the information contained therein, if such printout contains complete information corresponding to that data message and certified by such competent agency as designated, by Notification, by the Commission, it shall be deemed that such printout is equivalent to the original.<sup>5</sup>

**Section 11.**<sup>6</sup> The admissibility of a data message in evidence shall not be denied in legal proceedings, whether in a civil action, a criminal action or any other action, on the sole ground that it is a data message.

In assessing the evidential weight of a data message so as to conclude whether and to what extent it is reliable, regard shall be had to the reliability of the manner in which or the method by which the data message was generated, stored or communicated, the manner in which or the method by which the integrity of the information was maintained, and the manner in which or the method by which its originator was identified or indicated and also to all relevant circumstances.

The provisions of paragraph one shall also apply to a printout of a data message.

**Section 12.** Subject to the provisions of section 10, in the case where the law requires that any document or information be retained, if the retention is made in the form of a data message in accordance with the following rules, it shall be deemed as the retention of the document or information as required by the law:

(1) such data message is accessible and usable for subsequent reference without its meaning being altered;

(2) such data message is retained in the format in which it was generated, sent or received or in a format which can display accurately the information generated, sent or received; and

(3) the information, if any, which enables the identification of the origin, source and destination of such data message including the date and time when it was sent or received is retained.

---

<sup>5</sup> Section 10 paragraph four is added by the Electronic Transactions Act (No. 2), B.E. 2551 (2008).

<sup>6</sup> Section 11 is amended by the Electronic Transactions Act (No. 2), B.E. 2551 (2008).

The provisions of paragraph one shall not apply to the information the sole purpose of which is to enable the data message to be sent or received.

The State agency responsible for the retention of any document or information may prescribe supplemental details with regard to the retention of such document or information insofar as they are not contrary to or inconsistent with the provisions of this section.

**Section 12/1.**<sup>7</sup> The provisions of section 10, section 11 and section 12 shall also apply *mutatis mutandis* to a document or information subsequently prepared or transformed into the form of a data message by an electronic means and to the retention of such document or information

The preparation or transformation of a document and information into the form of a data message under paragraph one shall be in accordance with the rules and procedure prescribed by the Commission.

**Section 13.** An offer to make a contract and an acceptance may be expressed in the form of a data message and the contract shall not be denied legal effect on the sole ground that the offer or acceptance with respect to that contract was made in the form of a data message.

**Section 14.** As between the originator and the addressee, a declaration of will or notice may be in the form of a data message.

**Section 15.** When any person sent a data message by any means, it shall be deemed that the data message is that of such person.

As between the originator and the addressee, a data message is deemed to be that of the originator if it was sent by:

- (1) a person who had the authority to act on behalf of the originator in respect of that data message; or
- (2) an information system programmed, by the originator or a person who had the authority to act on behalf of the originator, to operate automatically.

**Section 16.** The addressee is entitled to regard a data message as being that of the originator and to act on that assumption with respect to that data message if:

- (1) the addressee has properly ascertained whether the data message was that of the originator in accordance with the procedure previously agreed with the originator;
- or

---

<sup>7</sup> Section 12/1 is added by the Electronic Transactions Act (No. 2), B.E. 2551 (2008).

(2) the data message as received by the addressee resulted from the action of a person who used a method which is used by the originator to identify data messages as his own and to which such person gained access through the relationship between such person and the originator or a person having the authority to act on behalf of the originator.

The provisions of paragraph one shall not apply if:

(1) at that time, the addressee has received notice from the originator that the data message as received by the addressee is not that of the originator and, at the same time, the addressee had reasonable time to take steps in verifying the facts to which the notice relates; or

(2) in a case under paragraph one (2), the addressee knew or should have known, had the addressee exercised reasonable care or acted in accordance with the agreed procedure, that the data message was not that of the originator.

**Section 17.** In the case under section 15 or section 16 paragraph one, as between the originator and the addressee, the addressee is entitled to regard the data message as received as being what the originator intended to send and to act on that assumption with respect to that data message, unless the addressee knew or should have known, had the addressee exercised reasonable care or acted in accordance with the agreed procedure, that the data message as received had an error resulting from the transmission.

**Section 18.** The addressee is entitled to regard each set of data message received as a separate data message and to act on that assumption with respect to that set of data message unless such set of data message duplicates another set of data message and the addressee knew or should have known, had the addressee exercised reasonable care or acted in accordance with the agreed procedure, that the data message was a duplicate data message.

**Section 19.** In the case where an acknowledgement of receipt of a data message is required, whether at the originator's request or as agreed with the addressee before or at the time of sending the data message or by means of that data message, the following rules shall apply:

(1) in the case where it has not been agreed by the originator that the acknowledgement be given in a particular form or by a particular method, the acknowledgement may be given by any communication by the addressee, whether by an automated information system or by any other method, or by any conduct of the addressee sufficient to indicate to the originator that the addressee has received the data message;

(2) in the case where the originator has stated a condition that the data message shall be regarded as having been sent only upon receipt of an acknowledgement by the addressee, it shall be deemed that the data message has never been sent until the originator has received the acknowledgement;

(3) in the case where the originator has not stated such a condition under (2) and the originator has not received the acknowledgement within the specified or agreed time, or, if no time has been specified or agreed, within a reasonable time, then:

(a) the originator may give notice to the addressee stating that the originator has not received the acknowledgement and specifying a reasonable time by which the acknowledgement must be made by the addressee; and

(b) if the originator has not received the acknowledgement within the time under (a), the originator may, upon notice having been given to the addressee, treat the data message as having never been sent, or the originator may exercise any other rights he may have.

**Section 20.** In the case where the originator receives the acknowledgement from the addressee, it shall be presumed that the addressee received the related data message, but this presumption does not imply that the data message as received by the addressee corresponds to the data message as sent by the originator.

**Section 21.** In the case where it is apparent in the acknowledgement of receipt of the data message itself that the data message as received by the addressee met technical requirements agreed upon by the originator and the addressee or set forth in applicable standards, it shall be presumed that the data message which was sent met all the technical requirements.

**Section 22.** The dispatch of a data message is deemed to occur when it enters an information system outside the control of the originator.

**Section 23.** The receipt of a data message is deemed to occur as from the time when the data message enters an information system of the addressee.

If the addressee has designated a particular information system for the purpose of receiving data messages, it shall be deemed that receipt of a data message occurs as from the time when the data message enters the information system designated by the addressee. But, if the data message is sent to any other information system of the addressee that is not the information system designated by the addressee, it shall be deemed that receipt of the data message occurs as from the time when the data message is retrieved from that information system.

The provisions of this section shall apply notwithstanding that the information system of the addressee is located in a different place from the place where the data message is deemed to be received by the addressee under section 24.

**Section 24.** A data message shall be deemed to be dispatched at the place of business of the originator and to be received at the place of business of the addressee, as the case may be.

In the case where the originator or the addressee has more than one place of business, reference shall be made, for the purpose of the place of business under paragraph one, to the place of business which has the closest relationship to the underlying transaction. But, if it cannot be determined which place of business has the closest relationship to such transaction, the principal place of business shall be treated as the place where such data message is received or dispatched.

In the case where the place of business of the originator or the addressee does not exist, his habitual residence shall be treated as the place of dispatch or receipt of the data message.

The provisions of this section shall not apply to the dispatch and receipt of a data message by telegramme and telex or by such other means of communication as prescribed in the Royal Decree.

**Section 25.** Any electronic transaction made in accordance with such security procedure as prescribed in the Royal Decree shall be presumed to have been made using a reliable method.

## CHAPTER II ELECTRONIC SIGNATURES

---

**Section 26.** An electronic signature that meets the following features shall be deemed to be a reliable electronic signature:

- (1) the signature creation data are, within the context in which they are used, linked to the signatory and to no other person;
- (2) the signature creation data were, at the time of creating the electronic signature, under the control of the signatory and of no other person;
- (3) any alteration to the electronic signature, made as from the time of its creation, is detectable; and
- (4) in the case where a purpose of the legal requirement for an electronic signature is to provide assurance as to the integrity of the information, any alteration made to that information as from the time of signing is detectable.

The provisions of paragraph one does not imply any limitation that no other method exists for establishing the reliability of an electronic signature or does not limit the adducing of any evidence of the non-reliability of an electronic signature.

**Section 27.** In the case where signature creation data can be used to create an electronic signature that has legal effect, each signatory shall:

(1) exercise reasonable care to avoid unauthorised use of his signature creation data;

(2) without delay, notify any person that may reasonably be expected to act on the basis of the electronic signature or to provide services in support of the electronic signature when:

(a) the signatory knows or should have known that the signature creation data has been lost, damaged, compromised, unduly disclosed or known in a manner inconsistent with their purpose

(b) the signatory knows from the circumstances that there occurs a substantial risk that the signature creation data may have been lost, damaged, compromised, unduly disclosed or known in a manner inconsistent with their purpose;

(3) in the case where a certificate is issued to support the electronic signature, exercise reasonable care to ensure the accuracy and completeness of all material representations made by the signatory that are relevant to the certificate throughout its life cycle or that are specified in the certificate.

**Section 28.** In the case where a certification service is provided to support an electronic signature that may be used for legal effect as a signature, the certification service provider shall:

(1) act in accordance with the policies and practices it has represented;

(2) exercise reasonable care to ensure the accuracy and completeness of all material representations made by it that are relevant to the certificate throughout its life cycle or that are specified in the certificate;

(3) provide means for reasonable access that enable a relying party to ascertain from the certificate all the material representations, as follows:

(a) the identity of the certification service provider;

(b) that the signatory that is identified in the certificate had control of the signature creation data at the time when the certificate was issued;

(c) that signature creation data were valid at or before the time when the certificate was issued;

(4) provide reasonably accessible means that enable a relying party to ascertain, the following, from the certificate or otherwise:

(a) the method used to identify the signatory;

(b) any limitation on the purpose and value for which the signature creation data or the certificate may be used;

(c) that the signature creation data are valid and have not been lost, damaged, compromised, unduly disclosed or known in a manner inconsistent with their purpose;

(d) any limitation on the scope or extent of liability stipulated by the certification service provider;

(e) availability of the means for the signatory to give notice in the event of the circumstances under section 27 (2);

(f) availability of a service for a timely revocation of a certificate;

(5) in the case where the service under (4) (e) is offered, provide a means for a signatory to give notice in accordance with the rules specified in section 27 (2) and, in the case where the service under (4) (f) is offered, ensure that such service can generate a timely revocation of a certificate;

(6) utilise trustworthy systems, procedures and human resources in performing its services.

**Section 29.** In determining the trustworthiness of systems, procedures and human resources under section 28 (6), regard may be had to the following factors:

(1) financial status, human resources and existing assets;

(2) quality of hardware and software systems;

(3) procedures for issuing certificates, applications for certificates and retention of records in relation to the provision of the service;

(4) availability of information in connection with signatories identified in certificates and potential relying parties;

(5) regularity and extent of audit by an independent auditor;

(6) a declaration by an accreditation body or a certification service provider regarding compliance with or existence of the factors mentioned in (1) to (5);

(7) any factor prescribed by the Commission.

**Section 30.** A relying party shall:

(1) take reasonable steps to verify the reliability of an electronic signature;

(2) in the case where an electronic signature is supported by a certificate, take reasonable steps to:

(a) verify the validity, suspension or revocation of the certificate; and

(b) observe any limitation with respect to the certificate.

**Section 31.** A certificate or an electronic signature shall be deemed to be legally effective, irrespective of:

(1) the location where the certificate is issued or the location where the electronic signature is created or used; or

(2) the location of the place of business of the issuer of the certificate or the signatory.

A certificate issued in a foreign country shall have the same legal effect as a certificate issued domestically if a system that is used in issuing such certificate is not of lower level of reliability than that under this Act.

An electronic signature created or used in a foreign country shall have the same legal effect as an electronic signature created or used domestically if a system that is used in creating or using such electronic signature is not of lower level of reliability than that under this Act.

In determining whether a certificate or an electronic signature offers reliability under paragraph two or paragraph three, regard shall also be had to international standards and to other relevant factors.

### CHAPTER III

#### SERVICE BUSINESSES RELATING TO ELECTRONIC TRANSACTIONS

---

**Section 32.** A person has the right to carry out a service business relating to electronic transactions, but in the case where it is necessary for maintaining financial and commercial security or for strengthening the reliability and credibility in data message systems or for preventing loss to the public, there shall be issued a Royal Decree requiring that the operation of any particular service-business relating to electronic transactions be subject to prior notification, registration or licence.

In making the determination as to in which case a notification, registration or licence under paragraph one shall be required, regard shall be had to the appropriateness of the prevention of loss in accordance with the magnitude of severity of impacts likely to occur in consequence of the operation of that business.

For this purpose, any particular State agency may be designated by such Royal Decree to be the responsible supervisory agency.

Prior to the recommendation of the issuance of the Royal Decree under paragraph one, a public hearing shall be conducted as is appropriate and the information to be derived therefrom shall be considered.

**Section 33.** In the case where a Royal Decree is issued requiring that the operation of a service business relating to electronic transactions in any particular case be subject to prior notification or registration, the person intending to operate such business must make the notification to, or carry out registration with, the competent official as prescribed in the Royal Decree prior to the commencement of the operation of such business.

The rules and procedures for the notification or registration under paragraph one shall be in accordance with the Royal Decree and the competent official as prescribed in the Royal Decree shall, when the notification or the registration has been made, issue a certificate of notification or a certificate of registration as evidence of the notification or registration on the date of the notification or registration, and the person making the notification or carrying out the registration may operate that business as from the date of the notification or registration accordingly. But, if the competent official as prescribed in the Royal Decree subsequently discovers that the notification or registration has been made in an incorrect or incomplete manner, the competent official shall have the power to order the person having made the notification or having carried out the registration to rectify it and ensure correctness and completeness within seven days as from the date on which such order is received.

In the operation of the business, the person having made the notification or having carried out the registration under paragraph one shall comply with the rules prescribed in the Royal Decree and the notifications prescribed by the Commission.

If the person having made the notification or having carried out the registration under paragraph one fails to rectify the defective notification or registration to ensure correctness and completeness under paragraph two, or violates or fails to comply with the rules for the operation of the business under paragraph three, the Commission shall consider and order the imposition of an administrative fine not exceeding one million Baht, having regard to the gravity of the faulty conduct and, in the case where it thinks fit, the Commission may issue an order requiring such person to take any action for the purpose of proper and appropriate rectification.

The rules for the consideration and imposition of an administrative fine shall be as prescribed by the Commission and if the person upon whom the administrative fine is imposed fails to make its payment, the provisions relating to the administrative execution under the law on administrative procedure shall apply *mutatis mutandis*, and in the absence of the execution of the order by an official, the Commission shall have the power to institute an action before the Administrative Court for mandating payment of the fine. In this instance, if the Administrative Court is of the opinion that the order mandating the payment of the fine is lawful, the Administrative Court shall have the power to try and adjudicate the case and order the seizure or attachment of the property for sale by auction for the purpose of payment of the fine.

In the case where the person committing the offence under paragraph four fails to make rectification in accordance with the order of the Commission or repeats the offence, the Commission shall have the power to issue an order prohibiting such person from further operating the business to which the notification or the registration relates.

**Section 34.** In the case where a Royal Decree is issued requiring that the operation of a service business relating to electronic transactions in any particular case be

subject to prior licence, the person intending to operate such business shall file an application for a licence with the competent official as prescribed in the Royal Decree.

The qualifications of the applicant for a licence, the rules and procedures for the application, the issuance of a licence, the extension of a licence, the surrender of a licence, the suspension or revocation of a licence shall be as prescribed in the Royal Decree.

In the operation of the business, the person to whom a licence is granted under paragraph one shall comply with the rules prescribed in the Royal Decree, the notifications prescribed by the Commission or conditions set forth in the licence.

In the case where the person to whom the licence has been granted violates or fails to comply with the rules for the operation of the service business relating to electronic transactions under paragraph three, the Commission shall consider and order the imposition of an administrative fine not exceeding two million Baht, having regard to the gravity of the faulty conduct and, in the case where it thinks fit, the Commission may issue an order requiring such person to take any action for the purpose of proper and appropriate rectification. In this instance, the provisions of section 33 paragraph five shall apply *mutatis mutandis*.

If the person committing the offence under paragraph four fails to make rectification in accordance with the order of the Commission or repeats the offence, the Commission shall have the power to issue an order revoking the licence.

#### CHAPTER IV

#### ELECTRONIC TRANSACTIONS IN THE PUBLIC SECTOR

---

**Section 35.** An application, permission, registration, administrative order, payment, notification or the performance of any act under the law with a State agency or by a State agency shall, if made in the form of a data message in accordance with the rules and procedures prescribed by the Royal Decree, fall under the application of this Act and shall be deemed to have the same legal effect as the act performed in accordance with the rules and procedures provided by the law on that particular matter. For this purpose, the Royal Decree may also require any act or omission by the person concerned or require a State agency to issue rules prescribing details in certain cases.

In issuing the Royal Decree under paragraph one, such Royal Decree may require the person operating the service business relating to electronic transactions to make notification, apply for registration or obtain a licence, as the case may be, prior to the commencement of the operation of the business. In this case, the provisions of Chapter 3 and the relevant penalties shall apply *mutatis mutandis*.

CHAPTER V  
ELECTRONIC TRANSACTIONS COMMISSION

---

**Section 36.**<sup>8</sup> There shall be the Electronic Transactions Commission consisting of the Minister of Information and Communication Technology as Chairman, Permanent Secretary for Information and Communication Technology as Vice Chairman and twelve members appointed by the Council of Ministers from selected qualified persons in the fields of finance, electronic commerce, law, computing science, science or engineering and social science, provided that two qualified persons must be from each of such fields and that, in each field, one qualified person must be from the private sector, and the Head of the Office of the Electronic Transactions Commission shall be a member and secretary.

The rules and procedure for the selection and the nomination of suitable persons to the Council of Ministers for considering and appointing as members of the Commission under paragraph one shall be in accordance with the Rules prescribed by the Minister.

The secretary shall appoint not more than two assistant secretaries.

**Section 37.** The Electronic Transactions Commission shall have the powers and duties as follows:

(1) to make recommendations to the Council of Ministers for the purposes of laying down policies for the promotion and development of electronic transactions as well as solving relevant problems and obstacles;

(2) to monitor the operation of service businesses relating to electronic transactions;

(3) to make recommendations or give advice to the Minister for the purpose of issuing Royal Decrees under this Act;

(4) to issue rules or notifications in connection with electronic signatures in the execution of this Act or in the implementation of the Royal Decree issued under this Act;

(5) to perform any other activity in the execution of this Act or other laws.

In the performance of an activity under this Act, a member of the Commission shall be an official under the Penal Code.

**Section 38.** A qualified member shall hold office for a term of three years.

---

<sup>8</sup> Section 36 paragraph one is amended by the Electronic Transactions Act (No. 2), B.E. 2551 (2008).

The outgoing member may be re-appointed but may not serve for more than two consecutive terms.

**Section 39.** In addition to the vacation of office upon the expiration of the term under section 38, a qualified member vacates office upon:

- (1) death;
- (2) resignation;
- (3) being removed by the Council of Ministers on the ground of misbehaviour, neglect of or dishonesty in the performance of duties, or lack of competence;
- (4) being an incompetent or quasi-incompetent person;
- (5) having been imprisoned by a final judgment to a term of imprisonment, except for an offence committed through negligence or a petty offence.

**Section 40.** In the case where the qualified member vacates office under section 39, it shall be deemed that the Commission consists of the remaining members and an appointment of a new member to fill the vacancy shall be made within sixty days as from the date on which the member vacates office.

The qualified member appointed to fill the vacancy shall be in office for the remaining term of the replaced person.

**Section 41.** At a meeting of the Commission, the presence of not less than one-half of the total number of members is required to constitute a quorum.

If the Chairman is not present at the meeting or is unable to perform the duty, the Commission shall elect one member to preside over the meeting.

A decision of the meeting shall be by a majority of votes. In casting votes, each member shall have one vote. In the case of an equality of votes, the person presiding over the meeting shall have an additional vote as a casting vote.

**Section 42.** The Commission has the power to appoint a sub-committee for considering or performing any act on behalf of the Commission.

The provisions of section 41 shall apply to a meeting of the sub-committee *mutatis mutandis*.

**Section 42/1.**<sup>9</sup> The Commission shall receive meeting allowances and other benefits in accordance with the rules prescribed by the Council of Ministers.

---

<sup>9</sup> Section 42/1 is added by the Electronic Transactions Act (No. 2), B.E. 2551 (2008).

A sub-committee appointed by the Commission under section 42 shall receive meeting allowances and other benefits in accordance with the rules prescribed by the Commission.

**Section 43.**<sup>10</sup> There shall be established the Office of the Electronic Transactions Commission as an agency within the Office of the Permanent Secretary for Information and Communication Technology to serve as the secretariat of the Commission.

**CHAPTER VI**  
**PENALTIES**

---

**Section 44.** Any person who operates the service business relating to electronic transactions without making the notification to or registration with the competent official as prescribed in the Royal Decree under section 33 paragraph one or in violation of the Commission's order prohibiting the operation of business under section 33 paragraph six shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand Baht or to both.

**Section 45.** Any person who operates the service business relating to electronic transactions without obtaining a licence under section 34 shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding two hundred thousand Baht or to both.

**Section 46.** For all offences under this Act, if an offence is committed by a juristic person, then, the manager or the person representing that juristic person or the person taking part in the operation of that juristic person shall also be liable to the penalty for such offence unless it is proved that he had no knowledge of, or connivance at, the commission thereof.

Countersigned by:

Pol. Lieutenant Colonel Thaksin Shinawatra  
Prime Minister

---

<sup>10</sup> Section 43 is amended by the Electronic Transactions Act (No. 2), B.E. 2551 (2008).