



Electronic Transactions Regulation 2012

under the

Electronic Transactions Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Electronic Transactions Act 2000*.

GREG SMITH, MP
Attorney General

Explanatory note

The object of this Regulation is to repeal and remake, with minor amendments, the *Electronic Transactions Regulation 2007*, which would otherwise be repealed on 1 September 2012 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation:

- (a) excludes certain laws from the operation of section 7 (1) of the *Electronic Transactions Act 2000* (**the Act**) (section 7 (1) provides that a transaction is not invalid because it took place wholly or partly by means of one or more electronic communications), and
- (b) excludes certain requirements, permissions and laws from the operation of Division 2 of Part 2 of the Act, with the result that Division 2 does not authorise:
 - (i) the giving of information in electronic form, or
 - (ii) the use of electronic signatures, or
 - (iii) the production of documents in electronic form, or
 - (iv) the retention of information in electronic form,for the purposes of those requirements, permissions and laws, and
- (c) declares the Consumer, Trader and Tenancy Tribunal, the Workers Compensation Commission and the Registrar of the Workers Compensation Commission to be courts for the purposes of Schedule 1 to the Act (so that electronic case management systems can be used in those courts).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters arising under legislation that is substantially uniform or complementary with legislation of the Commonwealth or another State or Territory and

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matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made under the *Electronic Transactions Act 2000*, including sections 6A and 15 (the general regulation-making power) and Schedule 1.

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under the

Electronic Transactions Act 2000

1 Name of Regulation

This Regulation is the *Electronic Transactions Regulation 2012*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note. This Regulation repeals and replaces the *Electronic Transactions Regulation 2007* which would otherwise be repealed on 1 September 2012 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

judicial body means a court or tribunal, and includes any other body or person exercising judicial or quasi-judicial functions.

the Act means the *Electronic Transactions Act 2000*.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Certain laws excluded from section 7 (1) of the Act

Section 7 (1) of the Act does not apply to the following laws of this jurisdiction:

Conveyancing Act 1919, section 23C

Election Funding, Expenditure and Disclosures Act 1981, and any regulations under that Act

Government Information (Public Access) Act 2009, and any regulations under that Act

Local Government Act 1993, Chapter 10, and any regulations under that Act with respect to the matters dealt with in that Chapter

Parliamentary Electorates and Elections Act 1912, and any regulations under that Act

Poisons and Therapeutic Goods Act 1966, and any regulations under that Act

Any other Act or regulation that makes provision for the conduct of polls or elections by the Electoral Commissioner or by an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*), to the extent only to which it makes such provision.

5 Certain requirements excluded from Division 2 of Part 2 of the Act

Division 2 of Part 2 of the Act does not apply to the following requirements and classes of requirements:

- (a) any requirement under a law of this jurisdiction for a person to lodge or file a document with a judicial body in connection with legal proceedings,
- (b) any requirement under a law of this jurisdiction for a person to sign a document to be lodged or filed with a judicial body in connection with legal proceedings,
- (c) any requirement under a law of this jurisdiction for a person to produce a document:
 - (i) to a judicial body in connection with legal proceedings, or
 - (ii) to a party to legal proceedings in connection with those proceedings,
- (d) any requirement under a law of this jurisdiction for a person to retain a document:
 - (i) that has been lodged or filed with, or produced to, a judicial body in connection with legal proceedings, or
 - (ii) that has been admitted in evidence in any legal proceedings held before a judicial body, or
 - (iii) that has been issued by a judicial body in connection with any legal proceedings,
- (e) any requirement under a law of this jurisdiction for a document to be served personally or by post,
- (f) any requirement under a law of this jurisdiction for a document to be verified, authenticated, attested or witnessed under the signature of a person other than the author of the document.

6 Certain permissions excluded from Division 2 of Part 2 of the Act

Division 2 of Part 2 of the Act does not apply to the following permissions and classes of permissions:

- (a) any permission under a law of this jurisdiction for a person to lodge or file a document with a judicial body in connection with legal proceedings,

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- (b) any permission under a law of this jurisdiction for a person to sign a document to be lodged or filed with a judicial body in connection with legal proceedings,
- (c) any permission under a law of this jurisdiction for a person to produce a document:
 - (i) to a judicial body in connection with legal proceedings, or
 - (ii) to a party to legal proceedings in connection with those proceedings,
- (d) any permission under a law of this jurisdiction for a person to retain a document:
 - (i) that has been lodged or filed with, or produced to, a judicial body in connection with legal proceedings, or
 - (ii) that has been admitted in evidence in any legal proceedings held before a judicial body, or
 - (iii) that has been issued by a judicial body in connection with any legal proceedings,
- (e) any permission under a law of this jurisdiction for a document to be served personally or by post,
- (f) any permission under a law of this jurisdiction for a document to be verified, authenticated, attested or witnessed under the signature of a person other than the author of the document.

7 Certain laws excluded from Division 2 of Part 2 of the Act

Division 2 of Part 2 of the Act does not apply to the following laws of this jurisdiction:

Conveyancing Act 1919, section 23C

Election Funding, Expenditure and Disclosures Act 1981, and any regulations under that Act

Government Information (Public Access) Act 2009, and any regulations under that Act

Local Government Act 1993, Chapter 10, and any regulations under that Act with respect to the matters dealt with in that Chapter

Parliamentary Electorates and Elections Act 1912, and any regulations under that Act

Poisons and Therapeutic Goods Act 1966, and any regulations under that Act

Any other Act or regulation that makes provision for the conduct of polls or elections by the Electoral Commissioner or by an accredited election service provider (referred to in Part 6A of the *Parliamentary*

Electorates and Elections Act 1912), to the extent only to which it makes such provision.

8 Definition of “court” for purposes of Schedule 1 to the Act

- (1) The Workers Compensation Commission is declared to be a court for the purposes of Schedule 1 to the Act.
- (2) The Registrar of the Workers Compensation Commission is declared to be a court for the purposes of Schedule 1 to the Act.
- (3) The Consumer, Trader and Tenancy Tribunal is declared to be a court for the purposes of Schedule 1 to the Act.

9 Repeal and savings

- (1) The *Electronic Transactions Regulation 2007* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Electronic Transactions Regulation 2007*, had effect under that Regulation continues to have effect under this Regulation.