

**Reprint
as at 1 September 2017**



**Electronic Transactions Regulations 2003
(SR 2003/288)**

Electronic Transactions Regulations 2003: revoked, on 1 September 2017, by section 346 of the Contract and Commercial Law Act 2017 (2017 No 5).

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 20th day of October 2003

Present:

Her Excellency the Governor-General in Council

Pursuant to section 36 of the Electronic Transactions Act 2002, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

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Regulations

1 Title

These regulations are the Electronic Transactions Regulations 2003.

2 Commencement

These regulations come into force on 21 November 2003.

3 Prescribed conditions in order to meet legal requirement by electronic means

- (1) The conditions prescribed in Schedule 1 for each legal requirement that is specified in Schedule 1 must be complied with in order to meet that legal requirement by electronic means.
- (2) The conditions prescribed in Schedule 1 are in addition to any requirement that is specified in the Electronic Transactions Act 2002 itself.

4 Time when legal requirement of disclosure satisfied by electronic communication

A legal requirement to make disclosure that is specified in Schedule 2 is treated as satisfied by an electronic communication at the time specified in Schedule 2 for that legal requirement.

5 Meaning of express consent

In Schedule 1, **express consent** means a positive indication of consent that is specific to the matter consented to.

Example 1

A person X checks a box to select the option of receiving information in electronic form. X expressly consents to receiving information in that form.

Example 2

A person Y fails to check a box to select the option of receiving information in non-electronic form by post. Y does not expressly consent to receiving information in electronic form.

Example 3

A person Z signs an agreement that, among its other terms, provides that Z agrees to receiving information in electronic form. Z does not expressly consent to receiving information in that form.

6 Condition relating to requirement that instrument or document be filed or presented under Land Transfer Act 1952

- (1) An instrument or document, other than an electronic instrument, required to be lodged or filed with the Registrar-General of Land for registration or deposit under the Land Transfer Act 1952 may be lodged or filed by electronic means if it is provided for in an electronic workspace facility approved by the Registrar-General of Land under the section 22 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.
- (2) In subclause (1), **electronic instrument** has the same meaning as in section 4 of the Land Transfer (Computer Registers and Electronic Lodgement) Amendment Act 2002.

Regulation 6: added, on 6 June 2008, by regulation 4 of the Electronic Transactions Amendment Regulations 2008 (SR 2008/114).

Schedule 1

**Prescribed conditions in order to meet legal requirement by
electronic means**

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**1 Conditions for legal requirement of certificate under Burial and
Cremation Act 1964**

A legal requirement under section 46A of the Burial and Cremation Act 1964 for a signed, written certificate may be met by information that is in electronic form and signed by means of an electronic signature, only if—

- (a) the means of creating the electronic signature is a digital certificate for authentication of users; and
- (b) the signatory uses a public key cipher (asymmetric encryption) with a minimum key length of 1024 bits; and
- (c) any alteration to the information or the electronic signature after the time of signing is detectable.

**2 Conditions for legal requirement of written notice under Conservation Act
1987**

A legal requirement to give written notice under section 26ZZM(2)(b)(ii) of the Conservation Act 1987 may be met by giving the required information in electronic form, whether by means of an electronic communication or otherwise, only if the person to whom the notice must be given—

- (a) has been given the option of receiving the notice in either electronic or non-electronic form; and
- (b) has expressly consented to the notice being given in electronic form and, if applicable, by means of an electronic communication.

3 Conditions for legal requirement of disclosure under section 16, section 16A, section 17, or section 18 of Credit Contracts Act 1981

A legal requirement under section 16, section 16A, section 17, or section 18 of the Credit Contracts Act 1981 to make disclosure may be met by giving the required information in electronic form, whether by means of an electronic communication or otherwise, only if the person to whom the disclosure must be made—

- (a) has been given the option of receiving the disclosure in either electronic or non-electronic form; and
- (b) has expressly consented to the disclosure being made in electronic form and, if applicable, by means of an electronic communication.

4 Conditions for legal requirements to retain records under Inland Revenue Acts

- (1) A legal requirement under the Inland Revenue Acts to retain a record that is initially in paper or other non-electronic form may be met by retaining an electronic form of the record, only if—
 - (a) the record is readily able to be produced in paper form; and
 - (b) that paper form is a duplicate image of the original paper or other non-electronic form.
- (2) For the purposes of subclause (1), it does not matter that annotations, indexing references, or other additional information are included in the record retained in electronic form, provided that they—
 - (a) do not obscure any of the original information contained in the record; and
 - (b) are distinguishable as additions to the original record.
- (3) A legal requirement under the Inland Revenue Acts to retain a record that is generated in electronic form and is provided to another person in paper or other non-electronic form (for example, an invoice generated electronically and printed for sending to a customer) may be met by retaining the record in its electronic form only.
- (4) Despite subclause (1), if a record is received from a person in both paper or other non-electronic form and in electronic form (for example, a bank statement sent by a bank in paper form, and also provided in electronic form), a legal requirement to retain the record may be met by retaining the record in its electronic form only.

- (5) In this clause, **Inland Revenue Acts** has the same meaning as in section 3(1) of the Tax Administration Act 1994.

5 Conditions for legal requirement of written notice under section 56G(2)(b)(ii) or section 62(3)(a) of National Parks Act 1980

A legal requirement to give written notice under section 56G(2)(b)(ii) or section 62(3)(a) of the National Parks Act 1980 may be met by giving the required information in electronic form, whether by means of an electronic communication or otherwise, only if the person to whom the notice must be given—

- (a) has been given the option of receiving the notice in either electronic or non-electronic form; and
- (b) has expressly consented to the notice being given in electronic form and, if applicable, by means of an electronic communication.

Schedule 2

Time when legal requirement of disclosure satisfied by electronic communication

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1 Time when electronic disclosure made under section 22, section 24, or section 24A of Credit Contracts Act 1981

For the purposes of section 22, section 24, and section 24A of the Credit Contracts Act 1981, when disclosure is made by sending the disclosure documents to a person by means of an electronic communication, the disclosure is made to that person on the second working day after the day on which the documents were sent.

2 Time when electronic disclosure made under sections 25 to 28 of Credit Contracts Act 1981

For the purposes of sections 25 to 28 of the Credit Contracts Act 1981, when disclosure is made by sending the disclosure documents to a person by means of an electronic communication, the disclosure is made to that person on the day on which the documents were sent.

Diane Morcom,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Electronic Transactions Regulations 2003 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Contract and Commercial Law Act 2017 (2017 No 5): section 346

Electronic Transactions Amendment Regulations 2008 (SR 2008/114)