

THE ELECTRONIC TRANSACTIONS (AMENDMENT) BILL
(No. V of 2026)

Explanatory Memorandum

The object of this Bill is to amend the Electronic Transactions Act to modernise and expand the legal framework governing electronic transactions in Mauritius.

2. The Bill updates the provisions relating to electronic signatures by adopting a reliability-based and technology-neutral standard, recognises the validity of contracts formed or performed through automated message systems and introduces a framework for the legal recognition and use of electronic transferable records.

3. The provisions relating to electronic transferable records are based on internationally recognised principles of functional equivalence and reliability and are intended to facilitate the secure dematerialisation of transferable documents and instruments traditionally issued in paper form.

4. These amendments aim to enhance legal certainty, facilitate paperless trade and cross-border electronic transactions and promote business facilitation in the digital economy.

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ARRANGEMENT OF CLAUSES

Clause

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| 1. Short title | 8. New sections 14A, 14B, 14C and 14D inserted in principal Act |
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| 3. Section 2 of principal Act amended | 10. Section 16 of principal Act amended |
| 4. Section 3 of principal Act amended | 11. Section 18 of principal Act repealed and replaced |
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A BILL

To amend the Electronic Transactions Act to provide for the expansion of electronic signatures, the recognition of contracts formed through automated message systems and the legal recognition of electronic transferable records, in order to enhance business facilitation and for matters related thereto

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Electronic Transactions (Amendment) Act 2026.

2. Interpretation

In this Act –

“principal Act” means the Electronic Transactions Act.

3. Section 2 of principal Act amended

Section 2 of the principal Act is amended –

- (a) by deleting the definition of “electronic agent”;
- (b) by deleting the definition of “electronic record” and replacing it by the following definition–

“electronic record” means information generated, communicated, received or stored by electronic means, including, where appropriate, all information logically associated with or otherwise linked together so as to become part of the record, whether generated contemporaneously or not;

- (c) by inserting, in the appropriate alphabetical order, the following new definitions –

“automated message system” means a computer program or an electronic or other automated system used to initiate an action or respond to data messages or performances in whole or in part, without review or intervention by a natural person each time an action is initiated or a response is generated by the system;

“electronic transferable record” is an electronic record that complies with the requirements of section 8C;

4. Section 3 of principal Act amended

Section 3 of the principal Act is amended by adding the following new paragraphs, the word “and” at the end of paragraph (g) being deleted –

- (i) facilitate cross-border electronic transactions, paperless trade and the integration of Mauritius in the global digital economy;
- (j) provide for the legal validity of contracts formed or performed through automated message systems and other electronic means without direct human intervention; and
- (k) provide for the legal recognition and use of electronic transferable records in accordance with principles of functional equivalence and reliability.

5. Section 8 of principal Act repealed and replaced

Section 8 of the principal Act is repealed and replaced by the following section –

8. Electronic signatures

(1) Where any enactment requires a signature, or provides for certain consequences if a document is not signed, an electronic signature shall satisfy that requirement if a method is used to identify the party and indicate its intention in respect of the information contained in the electronic record.

- (2) The method referred to in subsection (1) shall be –
 - (a) reliable and appropriate for the purpose for which the electronic record was generated or communicated, in the light of all the circumstances, including any relevant agreement; or
 - (b) proven in fact to have fulfilled the purpose specified in subsection (1), by itself or such documentary evidence as may be required.

6. New Part IIA inserted in principal Act

The principal Act is amended by inserting, after Part II, the following new Part –

PART IIA – ELECTRONIC TRANSFERABLE RECORDS

8B. Legal recognition of electronic transferable records

(1) An electronic transferable record shall not be denied legal effect, validity or enforceability on the sole ground that it is in electronic form.

(2) No person shall, without his consent, be required to use an electronic transferable record.

(3) The consent of a person to use an electronic transferable record may be inferred from the conduct of that person.

8C. Validity of electronic transferable records

Where an enactment requires a transferable document or instrument, that requirement shall be met by an electronic transferable record if –

- (a) the electronic record contains the information that would be required to be contained in a paper-based transferable document or instrument; and
- (b) a reliable method is used to –
 - (i) identify the record as the electronic transferable record;
 - (ii) render that electronic record capable of being subject to control from its creation until it ceases to have any effect or validity; and

- (iii) retain the integrity of that electronic record, by ensuring that the information contained in the electronic transferable record, including any authorised change that arises from its creation until it ceases to have any effect or validity, has remained complete and unaltered apart from any change which arises in the normal course of communication, storage and display.

8D. Control and possession of electronic transferable records

(1) Where an enactment requires or permits possession of a transferable document or instrument, that requirement shall be met with respect to an electronic transferable record if a reliable method is used to –

- (a) establish exclusive control of that record by a person; and
- (b) identify that person as the person in control.

(2) Where an enactment requires or permits transfer of possession of a transferable document or instrument, that requirement shall be met with respect to an electronic transferable record through the transfer of control over the electronic transferable record.

8E. General reliability standard

(1) A method shall be regarded as reliable where it is appropriate for the fulfilment of the function for which it is being used, having regard to all relevant circumstances, including –

- (a) any operational rules relevant to the assessment of reliability;
- (b) assurance of data integrity;
- (c) ability to prevent unauthorised access to and use of the system;
- (d) security of hardware and software;
- (e) regularity and extent of audit by an independent body;
- (f) existence of declaration by a supervisory body, an accreditation body or a voluntary scheme regarding the reliability ; and

(g) applicable industry standards.

(2) Notwithstanding subsection (1), a method shall be regarded as reliable if it is proven in fact to have fulfilled that function for which it was used, either by itself or together with further evidence.

8F. Time and place in electronic transferable records

Where an enactment requires or permits the indication of time or place in relation to a transferable document or instrument, that requirement shall be satisfied in respect of an electronic transferable record where a reliable method is used to indicate that time or place.

8G. Endorsement of electronic transferable records

Where an enactment requires or permits the endorsement of a transferable document or instrument, that requirement shall be satisfied in respect of an electronic transferable record where –

- (a) the information required for the endorsement is included in the electronic transferable record; and
- (b) that information complies with the requirements under sections 6 and 8.

8H. Amendment of electronic transferable records

Where an enactment requires or permits the amendment of a transferable document or instrument, that requirement shall be satisfied in respect of an electronic transferable record where –

- (a) a reliable method is used for the amendment; and
- (b) the amended information is identified as such.

8J. Replacement of transferable document or instrument with electronic transferable record

(1) A transferable document or instrument may be replaced by an electronic transferable record if a reliable method for the change of medium is used.

(2) For the change of medium to take effect, a statement indicating the change shall be inserted in the electronic transferable record.

(3) Upon issuance of the electronic transferable record, the paper document or instrument shall be inoperative.

8K. Replacement of electronic transferable record with transferable document or instrument

(1) An electronic transferable record may be replaced by a paper transferable document or instrument if a reliable method for the change of medium is used.

(2) For the change to take effect, a statement indicating the change shall be inserted in the paper document or instrument.

(3) Upon issuance of the paper document, the electronic transferable record shall be inoperative.

8L. Cross-border recognition of electronic transferable records

(1) An electronic transferable record shall not be denied legal effect, validity or enforceability on the sole ground that it was issued or used abroad.

(2) Nothing in this Part affects the application of private international law rules governing a transferable document or instrument.

7. Section 14 of principal Act amended

Section 14 of the principal Act is amended –

- (a) in subsection (1), by deleting the words “enters an information processing system outside” and replacing them by the words “leaves an information system under”;
- (b) in subsection (2), in paragraph (a)(ii), by deleting the words “is retrieved” and replacing them by the words “is capable of being retrieved”;
- (c) in subsection (5), by inserting, after paragraph (b), the following new paragraphs, the word “and” at the end of paragraph (b) being deleted –
 - (ba) where a location is not a place of business for the only reason that it houses –
 - (i) the equipment and technology supporting an information system used by a party in connection with the formation of a contract are located; or

- (ii) the information system that may be accessed by other parties;
- (bb) the sole fact that a party makes use of a domain name or electronic mail address connected to a specific country does not create a presumption that its place of business is located in that country; and

8. New sections 14A, 14B, 14C and 14D inserted in principal Act

The principal Act is amended by inserting, after section 14, the following new sections –

14A. Invitations to make offers

A proposal to conclude a contract made through one or more electronic communications which is not addressed to one or more specific parties, but is generally accessible to parties making use of information systems, including proposals that make use of interactive applications for the placement of orders through such information systems, shall be considered as an invitation to make offers, unless it clearly indicates the intention of the party making the proposal to be bound in case of acceptance.

14B. Use of automated message systems

A contract formed or performed by the interaction of an automated message system and a natural person, or by the interaction of automated message systems, shall not be denied validity or enforceability on the sole ground that no natural person reviewed or intervened in each of the individual actions carried out by the automated message systems or the resulting contract.

14C. Error in electronic communications

(1) Where a natural person makes an input error in an electronic communication exchanged with the automated message system of another party and the automated message system does not provide the person with an opportunity to correct the error, that person, or the party on whose behalf that person was acting, may withdraw the portion of the electronic communication in which the input error was made if the person, or the party on whose behalf that person was acting –

- (a) notifies the other party of the error as soon as possible after having learned of the error and indicates that he made an error in the electronic communication; and

- (b) has not used or received any material benefit or value from the goods or services, if any, received from the other party.

(2) Nothing in this section affects the application of any rule of law that may govern the consequences of any error other than as provided in subsection (1).

14D. Availability of contract terms

Where the terms of a contract are negotiated by means of electronic communications, each party shall ensure that the other party is provided, in a clear and accessible manner, with the electronic communications containing the contractual terms, and shall remain subject to the legal consequences of any failure to do so.

9. New section 15A inserted in principal Act

The principal Act is amended by inserting, after section 15, the following new section –

15A. Recognition of foreign certificates and electronic signatures

The geographic location –

- (a) where a certificate is issued or the electronic signature created or used; or
- (b) of the place of business of the issuer or signatory,

shall not determine whether, or to what extent, a certificate or an electronic signature is effective.

10. Section 16 of principal Act amended

Section 16 of the principal Act is amended by adding the following new paragraph, the comma at the end of paragraph (d) being deleted and replaced by the words “; and” and the word “and” at the end of paragraph (c) being deleted –

- (e) any alteration to the electronic signature, made after the time it was made, is detectable,

11. Section 18 of principal Act repealed and replaced

Section 18 of the principal Act is repealed and replaced by the following section –

18. Secure electronic records with digital signature

Where a digital signature is, in accordance with section 19, a secure electronic signature, the electronic record to which the signature relates shall be treated as a secure electronic record.

12. Section 19 of principal Act amended

Section 19 of the principal Act is amended by deleting the words “any portion of” and the words “such portion of”.

13. Commencement

(1) Subject to subsection (2), this Act shall come in to operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.
