

THE NATIONAL ASSEMBLY OF THE SOCIALIST REPUBLIC OF VIETNAM

LEGISLATURE XI, SESSION 8

LAW ON E-TRANSACTIONS

Pursuant to the Constitutions of the Socialist Republic of Vietnam of 1992 as amended by Resolution 51/2001/QH10 of 25/12/2001 of the 10th Legislature, Session No. 10;

This Law provides for e-transactions.

Chapter I

GENERAL PROVISION

Article 1- Governing Scope

This Law provides provisions on e-transactions in operations of State bodies; and in the civil, business and other sectors as provided by the laws.

The provisions of this Law shall not apply to grants of certificates of land use rights, house ownership rights and other immovable properties, writings related to inheritance, marriage certification, divorce decision, birth declaration, death declaration, land and other immovable assets; bills of exchange and other valuable papers

Article 2. Scope of Application

This Law shall apply bodies, organizations, individuals selecting to transact through e-means

Article 3. Application of the Law on E-transactions

In case there is a difference between the provisions of the Law on E-transactions and provisions of other laws concerning one and the same matter on e-transactions, the Law on E-transactions shall apply.

Article 4. Definition

In this Law, the following terms are defined as follows:

1. *An e-certificate*

4. *Database*

1. To give priority to develop technology infrastructure and train human resources related to e-transactions.
2. To encourage agencies, organizations, individuals to invest and apply e-transactions in accordance with provisions of this Law.

6. Fraudulent, wrongly identification, appropriation or illegal use of e-signatures of others.

Chapter II

DATA MESSAGE

Section 1

Validity of Data Message

Article 10. Forms showing of data message

Data message is shown in the form of exchanges of electronic data, electronic documents, e-mails, telegram, telegraphy, faxes and other similar forms.

Article 11. Recognition of Validity of Data Message

Information in data message cannot be denied [its] validity for the sole reason that such

b) The data message is retained in the format in which it was generated, sent or received, or in a format which can be demonstrated to represent accurately the contents of the data message;

c) Such information is retained in a way to enable the identification of the origin and destination of a data message and the date and time when it was sent or received.

2. Contents, time limit of storage of data message shall be carried out in accordance with the law on storage.

Section 2

Dispatch and Receipt of Data Messages

2. Unless otherwise agreed by the parties to the transaction, the receipt of a data messages is provided as follows:

a. The recipient of a data message is deemed to have received the data message when the data message enters into the information system which is designated by him/her and accessible.

b. The recipient is entitled to consider each data message as an independent data message unless such data message is a copy of another data message and the recipient knows or must have known such data message is a copy.

c) Where the originator has required or agreed with the recipient before or during the dispatch of a data message that the recipient must send an acknowledgement when receiving the data message, the recipient must comply with such request or agreement.

dd) In case the originator has not stated that the recipient must send an acknowledgement and the acknowledgement has not yet received the acknowledgement, the originator may give notice to the recipient stating that no acknowledgement has been received and specifying a reasonable time by which the acknowledgement must be received. In case the acknowledgement is not received within the time specified, the originator may treat the data message as though it had never been sent.

Article 19. Time and Place of Receipt of Data Messages

Unless otherwise agreed by the parties to the transaction, the time and place of receipt of a data message are provided as follows.

1. In case the recipient has designated an information system for the purpose of receiving data messages, receipt occurs at the time when the data message enters the designated information system. In case the recipient has not designated an information system, the receipt occurs when the data message enters any information system of the recipient.

2. A data message is deemed to be received at the place of business of the recipient if the recipient is an agency, organization or the regular residence of the recipient if the recipient is an individual. In case the recipient has more than one place of business, the place of business is that which has the closest relationship to the transaction.

Article 20. Automatic Dispatch and Receipt of Data Messages

If the originator or the recipient has designated one or several information systems for the purpose of automatic dispatch or receipt of data messages, the provisions of Articles 16, 17, 18 and 19 of this Law shall apply.

Chapter III

E-SIGNATURES AND CERTIFICATION OF E-SIGNATURES

Section 1

E-signatures

Article 21. E-signature

2. An e-signature shall be deemed as being secured if the e-signature satisfied the conditions stipulated in Article 22.1 of this Law.

3. E-signature may be certified by an e-signature certification service providing organization.

Article 22. Conditions to ensure security of e-signatures

1. An e-signature shall be deemed as being secured if [it] is verified by a security verifying process agreed by transacting parties and satisfied the following conditions:

a) E-signature creation data is attached only to the signatory in the context that such data is used;

b) E-signature creation data is only under the control of the signatory at the time of signing;

1. A signatory of an e-signature or the legal representative of such signatory shall be the person who controls the electronic signing program and uses such equipment to certify his/her intention with respect to the signed data message.

2. A signatory of an e-signature shall have the following obligations:

(a) Have means to avoid unauthorized use of its e-signature creation data;

(b)

3. Providing other services related to e-signatures and e-signature certificates in accordance with the law.

Article 29. Contents of E-certificates

1. Information about e-signature certification service providing organizations.
2. Information about agencies, organizations, individuals to whom e-certificates are provided.
3. Number of e-certificate.
4. Effective term of e-certificate.
5. E-signature inspection data of the person who holds e-certificate.
6. E-signature of e-signature certification service providing organizations.
7. Limitation on the purpose or use of the certificate.
8. Limitation on the legal liabilities of the e-signature certification service providing

dd) Make public information related to e-certificates already issued, renewed, suspended, restored or revoked;

e) Provide appropriate facilities to enable those who accept e-signatures and State

Chapter IV

ENTERING INTO AND EXECUTION OF E-CONTRACTS

Article 33. E-contracts

E-contracts are contracts established in the form of data messages in accordance with the provisions of this Law.

Article 34. Recognition of validity of e-contracts

Validity of an e-contract shall not be denied for the sole reason that such contract is in the form of a data message.

Article 35. Principles of entering into, execution of e-contracts

1. Parties have rights to agree on use electronic means in the process of entering into, execution of contracts.

2. The entering into, execution of an e-contract shall comply with the provisions of this Law and laws on contracts.

3. When entering into, executing e-contracts, the parties shall have right to agree on technical requirements, certification, conditions ensuring the integrity, confidentiality related to such e-contracts.

Article 36. Entering into e-contracts

1. Entering into e-contracts shall be the use of data messages in order to carry out parts of or the whole transaction during the process of entering into contracts.

2. During the process of entering into contracts, unless otherwise agreed by the parties, an offer to entering into contracts and acceptance of the offer to entering into contracts may be carried out through data messages.

1. Principles shall be stipulated in Clauses 3, 4 and 5 of Article 5 of this Law.
2. E-transactions between State bodies must be in accordance with the provisions of this Law and other provisions of related laws.
3. A State body within their tasks, powers shall hold initiate in carrying out a part or all of transactions in its internal body or with other State bodies by electronic means.
4. Based on socio-economic development conditions and their specific situations, State bodies determine a reasonable roadmap for using electronic means in the types of transactions stipulated in Article 39 of this Law.
5. Agencies, organizations, individuals have rights to select transactional means with State bodies with such State bodies agree to accept transactions in traditional forms as well as transactions in electronic means, unless the law provides otherwise.
6. When conducting e-transaction, State agencies shall determine the following:
 - a.) Formats, forms of data messages;
 - b) In case e-transactions require e-signatures, descriptions of types of e-signatures and e-certification, certification of e-signatures;
 - c) Procedures to ensure the integrity, security and confidentiality of e-transactions;
7. A State agency can provide public services in electronic forms based on regulations of such agency. Such regulations shall not be contrary to provisions of this Law and other provisions of related laws.

Article 41. Security, confidentiality and storage of electronic information in State agencies

- 1). Periodic review and ensuring security of their electronic data system in conducting e-transactions.
- 2). Ensuring confidentiality of information related to e-transactions; not to use the information for other purposes in contrary to the provisions on the use of such information; not to disclose the information to a third party in accordance with the law.
- 3). Ensuring the integrity of data messages in e-transactions; ensuring safety in operating their computer network;
- 4). Creating database of corresponding transactions, ensuring information security and having standby system to recover information in case of errors of the electronic information system.
- 5) Ensuring security, confidentiality and storage of information in accordance with the provisions of this Law and other provisions of related laws.

Article 42. Responsibilities of State Agencies in case of Errors of E-information System

1. In case e-information system of a State agency has errors, which do not ensure the safety

Article 43. Responsibilities of Agencies, Organizations and Individuals in E-transactions with State Agencies

Agencies, organizations and individuals in their e-transactions with State agencies shall

1. Upon requests of competent State agencies, agencies, organizations and individuals shall have the following responsibilities:

a. Storage of a particular data message including the transfer of the data to another computer system or other storage place;

b. Maintenance of the integrity of a particular data messages;

c. Presentation of or providing a particular data messages they have or under their control including password and other encryption methods;

d. Presentation of or providing information related to the user of the services when the agencies, organizations and individuals being requested are service providers controlling this information;

dd. Other responsibilities provided by law.

2. Competent State agencies shall be responsible before the laws for their requests.

Article 49. Rights and responsibilities of State competent agencies

1. Competent State agencies shall have the following rights:

a. Search or otherwise access part or all of the computer system and data messages in such system;

b. Seize part or all of the computer system;

c. Copy and store copies of data messages;

d. Prevent access to a computer system;

dd. Other rights provided by law.

2. When exercising the rights stipulated in Clause 1 of this Article, competent State agencies shall be responsible before the laws for their decisions.

Chapter VII

DISPUTE SETTLEMENT AND HANDLING BREACHES

Article 50. Dealing with breaches of laws in e-transactions

1. Any person violating the law in e-transactions shall be subject to disciplines, administrative sactions or criminal liabilities depending on the nature, level of violation, if causing damage, a compensation must be paid in accordance with the law.

2. Agencies or organizations violating laws in e-transactions must be subject to administrative sanctions, suspension depending on the nature, level of violation, if causing damage, compensation must be paid in accordance with the law.

Article 51. Disputes in E-transactions

Disputes in e-transactions are disputes arising during transactions by electronic means.

Article 52. Dealing with disputes in e-transactions

1. The State encourages parties to a dispute in e-transactions to solve disputes by themselves through conciliation.

