

**SAINT VINCENT AND THE GRENADINES
ELECTRONIC FILING ACT 2015
ARRANGEMENT OF SECTIONS**

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SAINT VINCENT AND THE GRENADINES

ACT NO. 5 OF 2015

I ASSENT

[L.S.]

DR. FREDERICK BALLANTYNE

Governor-General

12th May, 2015

AN ACT to enable information and forms to be filed electronically with public authorities and for related matters.

[By Proclamation]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same, as follows:

1. (1) This Act may be cited as the Electronic Filing Act, 2015. Short title and commencement
- (2) This Act comes into force on a day to be appointed by the Governor-General by Proclamation published in the *Gazette*.
2. In this Act— Interpretation
 - “electronic filing” means the electronic transmission of documents to a public authority, and from a public authority, for the purposes of filing;
 - “electronic form,” with reference to information, means any information generated, sent, received or stored in media, magnetic form, optical form, computer memory, microfilm, computer generated microfiche or similar device;

“electronic record” means a record generated, communicated, received or stored by electronic means in an information system or for transmission from one information system to another;

“electronic signature” has the same meaning as under the Electronic Transactions Act 2015;

“file” means to file, register, submit, deposit, make an application or otherwise make available;

“Minister” means the Minister with responsibility for the administration of this Act;

“officer”, in relation to a public authority, includes a servant or employee of the public authority;

“public authority” means a Ministry, Department, Agency, board, commission, local democratic organ or other body of the Government and includes an entity or body established by law or by arrangement of the Government or a Minister for a non-commercial public service purpose;

“specified security procedure” has the same meaning as under the Electronic Transactions Act 2015.

Act binds Crown

3. This Act binds the Crown.

Inapplicability of Act

4. (1) This Act shall not apply to any written law requiring writing, signatures or original documents for the production of documents relating to immigration, citizenship or passport matters.

(2) Notwithstanding subsection (1), regulations made under this Act may make this Act applicable to any of the legal requirements referred to in subsection (1).

Use of electronic records and electronic signatures by public authority

5. (1) A public authority that, pursuant to any written law —

- (a) accepts the filing of documents, or obtains information in any form;
- (b) requires that documents be created or retained;

- (c) requires documents, records or information to be provided or retained in their original form;
- (d) issues any permit, licence or approval; or
- (e) requires payment of any fee, charge or other amount by any method and manner of payment,

may, notwithstanding anything to the contrary in such written law, carry out that function by means of electronic records or in electronic form.

(2) Where a public authority performs any of the functions in subsection (1) by means of electronic records or in electronic form, the public authority may specify —

- (a) the manner and format in which the electronic records shall be filed, created, retained, issued or provided;
- (b) where the electronic records have to be signed, the type of electronic signature required including, if applicable, a requirement that the sender use a particular type of secure electronic signature;
- (c) the manner and format in which the signature shall be affixed to the electronic record or electronic form, and the identity of or criteria that shall be met by any specified security procedure used by the person filing the document;
- (d) the control processes and procedures as may be appropriate to ensure adequate integrity, security and confidentiality of electronic records or payments; or
- (e) any other required attributes for electronic records or payments that are currently specified for corresponding paper documents.

(3) For the avoidance of doubt, notwithstanding anything to the contrary in any written law but subject to any specification made under subsection (2), where a person is required by any written law to —

- (a) file a document with or provide information in any form to a public authority;
- (b) create or retain a document for a public authority;

- (c) use a prescribed form for an application or notification to, or other transaction with, a public authority;
- (d) provide to or retain for a public authority a document, record or information in its original form; or
- (e) hold a licence, permit or other approval from a public authority,

such a requirement is satisfied by an electronic record specified by the public authority for that purpose and —

- (i) in the case of a requirement referred to in paragraph (a), (c) or (d), transmitted or retained as the case may be in the manner specified by the public authority;
- (ii) in the case of a requirement referred to in paragraph (b), created or retained as the case may be in the manner specified by the public authority; or
- (iii) in the case of a requirement referred to in paragraph (e), issued by the public authority.

(4) Subject to sections 13 and 14 of the Electronic Transactions Act 2015, nothing in this Act shall by itself compel any public authority to accept or issue any document or information in the form of electronic records or to accept any payment in electronic form.

Time and date of filing

6. Where information is filed by electronic filing, the time or date of filing is the time or date assigned under this Act and its regulations.

Right to deduct compensation

7. A person prescribed by the regulations made under this Act that receives a payment of fees, taxes, interest, penalties or other charges under this Act or a written law on behalf of the Government by a debit card, credit card or pre-authorized charge of the person, or by another method of payment acceptable to the Minister of Finance, may deduct from the payment the amount of compensation that the Minister of Finance and the person agree may be deducted.

Identifiers

8. (1) The Minister may establish a system of authorised user identifiers and provide for the manner in which authorised user identifiers are assigned to a person or a class of persons.

(2) The Minister may enter into agreements or make regulations providing for the integration of a system of authorised user identifiers established pursuant to this section with any system of personal identification established by a public authority.

9. (1) The Minister may prescribe standards that persons are required to comply with for the purpose of this Act for electronic filing or adopt those standards by reference.

Power to
prescribe
standards

(2) Before prescribing any standards under subsection (1) the Minister shall consult with other Ministers to ensure that new standards do not conflict with any standards specified under section 5 (2) for a particular public authority.

(3) A standard prescribed under subsection (1) may provide that it does not apply to a specification made under section 5 (2).

10. (1) Where there is a conflict between this Act and any other written law or Regulations made under this Act and any written law, this Act and the Regulations shall prevail.

Effect of conflict

(2) Subsection (1) shall not apply to any provisions or specifications made under section 5 (2).

11. Where documents, records or information are required by a statutory provision or rule of law or by contract or by deed to be made available for inspection, that requirement shall be met by making the documents, records or information available for inspection in perceivable form as an electronic record.

Records available
for inspection

12. (1) A certified copy of an electronically filed document recorded in a public authority shall be received as evidence of that document and of the matters, transactions and accounts recorded, where it is proved by the oath or affidavit of an officer of that public authority that the document was, at the time of the filing of the document, one of the ordinary documents stored electronically in that public authority, that the entry was made in the usual and ordinary course of business of that public authority and that the copy is a true copy.

Evidence of
entries on
government
books

(2) An electronic record of any transaction stored in electronic format in a public authority shall be received as evidence of that record and of the matters, transactions and accounts recorded where it is proved

by the oath or affidavit of an officer of that public authority that the record was, at the time of filing of the record, one of the ordinary records stored electronically in that public authority, that the entry was made in the usual and ordinary course of business of that public authority and that the copy is a true copy.

Regulations

13. The Minister may make regulations respecting any matter considered necessary to carry out effectively the intent and purpose of this Act.

Passed in the House of Assembly this 30th day of April, 2015.

NICOLE HERBERT

Clerk of the House of Assembly.

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