

A BILL

FOR

AN ACT TO FACILITATE ELECTRONIC TRANSACTIONS IN NIGERIA; AND
FOR RELATED MATTERS, 2016

Sponsored by Hon. Uzoma Nkem Abonta

[] Commencement

ENACTED by the National Assembly of the Federal Republic of
Nigeria as follows-

- 1 1. The Objects of this Bill are-
 - 2 (a) to eliminate legal barriers to the effective use of electronic
 - 3 communications in transactions;
 - 4 (b) to promote the harmonization of legal rules on electronic
 - 5 transactions across national boundaries;
 - 6 (c) to facilitate the appropriate use of electronic transactions;
 - 7 (d) to promote business and community confidence in electronic
 - 8 transactions; and
 - 9 (e) to enable business and the community to use electronic
 - 10 communications in their transactions with government.
- 11 2. The provisions of this Bill shall apply to transactions both in the
- 12 private and public sectors.
- 13 3.-(1) As from the commencement of this Bill, no information shall
- 14 be denied legal effect, validity or enforcement solely on the ground that it is
- 15 in electronic form.
 - 16 (2) In sections 4, 5, 6, 7 and 8, where rules of law-
 - 17 (a) require information to be in writing, given, signed, original, or
 - 18 retained, the requirement is met if the section is complied with;
 - 19 (b) provide consequences where the information is not in writing,
 - 20 given, signed, original, or retained, the consequences are avoided if the
 - 21 section is complied with; and

Objectives of
this Bill

Application of
this Bill

Non-discrimination
against electronic
information

1 (c) provide consequences if the information is in writing, given,
2 signed, original or retained, the consequences are achieved if the section is
3 complied with.

Writing
requirements

4 4.-(1) A rule of law that requires information to be in writing or to be
5 given in writing is satisfied by information in electronic form if the information
6 is accessible so as to be usable for subsequent reference.

7 (2) In subsection (1), giving information includes, but is not limited
8 to, the following-

- 9 (a) making an application;
- 10 (b) making, filling or lodging a claim;
- 11 (c) giving, sending or serving a notification;
- 12 (d) filing or lodging a return;
- 13 (e) making a request;
- 14 (f) making a declaration;
- 15 (g) filing or lodging issuing a certificate;
- 16 (h) making, varying or cancelling an election;
- 17 (i) filling or lodging an objection;
- 18 (j) giving a statement of reasons;

19 (3) Information in electronic form is not given unless the information
20 is capable of being retained by the person to whom it is given.

Prescribed forms

21 5. A rule of law that requires a person to provide information in a
22 prescribed non-electronic form to another person is satisfied by the provision
23 of the information in an electronic form that is-

24 (a) organized in the same or substantially the same way the prescribed
25 non-electronic form:

26 (b) accessible to the other persons so as to be usable for subsequent
27 reference; and

28 (c) capable of being retained by the other person.

Signature
requirements

29 6.-(1) If a rule of law requires the signature of a person, that
30 requirement is met by an electronic signature.

1 (2) Parties may agree to use a particular method of electronic
2 signature.

3 7. A rule of law that requires a person to produce, examine or keep
4 an original document is satisfied if the person produces, examines or retains
5 the document in electronic form, if-

Requirement to
produce an original
document

6 (a) having regard to all the relevant circumstances, the methods of
7 generating the electronic form of the document provided a reliable means of
8 assuring the maintenance of the integrity of the information contained in the
9 document; and

10 (b) in a case where an original document is to be given to a person,
11 the document given to the person in electronic form is accessible so as to be
12 usable for subsequent reference and capable of being retained by the
13 person.

14 8. A rule of law that requires a person to keep information either
15 that is in writing or that is in electronic form, is satisfied by keeping the
16 information in electronic form, if-

Keeping written
documents

17 (a) having regard to all the relevant circumstances, when the
18 electronic form of the document was generated, the method of generating
19 the electronic form of the document provided a reliable means of assuring
20 the maintenance of the integrity of the information contained in the
21 document; and

22 (b) when the electronic form of the document was generated, the
23 information contained in the electronic form of the document is accessible
24 so as to be usable for subsequent reference to any person entitled to have
25 access to the information or to require its production.

26 9. For the purposes of Sections 7 and 8 of this Bill, the integrity of
27 information in a document is maintained if, and only if, the information has
28 remained complete and unaltered, apart from-

Integrity of
Information

29 (a) the addition of any endorsement;

30 (b) any immaterial change which arises in the normal course of

	1	communication, storage or display.
Recognition of foreign electronic documents and signatures	2	10. In determining whether or to what extent information, in
	3	electronic form is legally effective, no regards shall be given to the location
	4	where the information was created or used, or to the place of business of its
	5	creator.
Government uses	6	11.-(1) Where a public body has power to create, collect, receive,
	7	store, transfer, distribute, publish, issue or otherwise deal with information
	8	and documents, it shall have the power to do so electronically.
	9	(2) The provisions of subsection (1) of this section shall be subject to
	10	any rule of law that expressly prohibits the use of electronic means or expressly
	11	requires them to be used in specified ways.
	12	(3) For the purposes of subsection (2) of this section, a reference to
	13	writing or signature does not in itself constitute an express prohibition of the
	14	use of electronic means.
	15	(4) Where a public body consents to receive any information in
	16	electronic form, it may specify-
	17	(a) the manner and format in which the information shall be
	18	communicated to it;
	19	(b) the type or method of electronic signature required, if any;
	20	(c) control processes and procedures to ensure integrity, security and
	21	confidentiality of the information;
	22	(d) any other attributes for the information that are currently specified
	23	for corresponding information on paper.
	24	(5) The requirements of section 4(1) and (3) and section 5 of this Bill
	25	shall also apply to information described in subsection (4) of this section.
	26	(6) A public body may make or receive payment in electronic form by
	27	any manner specified by the public body and approved by the Minister.
Exemptions	28	12. This Bill does not apply to-
	29	(a) the creation or transfer of interests in real property;
	30	(b) negotiable instruments;

- 1 (c) documents of title;
2 (d) wills and trusts created by will; and
3 (e) any class of documents, transactions or rules of law excluded by
4 regulation under this Bill.

5 **13.**-(1) Nothing in this Bill limits the operation of any other
6 enactment that expressly authorizes, prohibits or regulates the use of
7 information in electronic form, including a method of electronic signature.

Certain other
laws not affected

8 (2) Nothing in this Bill limits the operation of any other enactment
9 requiring information to be posted or displayed in a specified manner or
10 requiring any information to be transmitted by a specified method.

11 (3) A reference to writing or signature does not in itself constitute a
12 prohibition for the purpose of subsection (1) of this section or a legal
13 requirement for the purpose of subsection (2) of this section.

14 **14.**-(1) Nothing in this Bill requires a person to use, provide or
15 accept information in electronic form without his consent, but a person's
16 consent to do so may be inferred from the person's conduct.

Consent

17 (2) Despite the provisions of subsection (1) of this section, the
18 consent of a public body, pursuant to the provisions of section 11 of this Bill,
19 to accept information in electronic form may not be inferred from its
20 conduct but must be expressed by communication accessible to the public or
21 to those most likely to communicate with it for particular purposes.

22 (3) Nothing in this Bill authorizes a public body, pursuant to the
23 provisions of section 11 of this Bill, to require any person to use, provide or
24 accept information in electronic form without consent.

25 **15.**-(1) Unless the parties agree otherwise, an offer, the acceptance
26 of an offer or any other matter that is material to the formation or operation
27 of a contract may be expressed-

Contracts

28 (a) by means of information in electronic form; or

29 (b) by an act that is intended to result in electronic communication,
30 such as touching or clicking on an appropriate icon or other place on a

1 computer screen, or by speaking.

2 (2) A contract is not invalid or unenforceable by reason only of being
3 in electronic form.

Automated
contracts

4 **16.** A contract may be formed by the interaction of computer
5 programmes or other electronic means used to initiate an act or to respond to
6 electronic information, in whole or in part, without review by an individual at
7 the time of the response or act.

Mistakes in
partly automated
contracts

8 **17.-(1)** An electronic transaction between an individual and another
9 person's automated source of information has no legal effect if-

10 (a) the individual makes a material error in electronic information or
11 an electronic document used in the transaction;

12 (b) the automated source of information does not give the individual
13 an opportunity to prevent or correct the error;

14 (c) on becoming aware of the error, the individual promptly notifies
15 the other person; and

16 (d) in a case where consideration is received as a result of the error, the
17 individual, returns or destroys the consideration in accordance with the other
18 person's instructions or, if there are no instructions, deals with the
19 consideration in a reasonable manner, and does not benefit materially by
20 receiving the consideration.

21 (2) This section does not limit the operation of any other rule of law
22 relating to mistake.

Expression of
will

23 **18.** As between the originator and the addressee of a communication
24 in electronic form, a declaration of will or other statement shall not be denied
25 legal effect, validity or enforceability solely on the grounds that it is in
26 electronic form.

Time and place
of sending and
receiving electronic
communication

27 **19.-(1)** An electronic communication is sent when it enters an
28 information system outside the sender's control or, if the sender and the
29 addressee use the same information system, when it becomes capable of being
30 retrieved and processed by the addressee.

1 (2) An electronic communication is presumed to be received by the
2 addressee-

3 (a) if the addressee has designated or uses an information system
4 for the purpose of receiving communications of the type sent, When it enters
5 that information system and becomes capable of being retrieved and
6 processed by the addressee; or

7 (b) if the addressee has not designated or does not use an
8 information system for the purpose of receiving communications of the type
9 sent, or if the addressee has designated or used such a system but the
10 communication has been sent to another system, when the addressee
11 becomes aware of the communication in the addressee's information system
12 and it becomes capable of being retrieved and processed by the addressee.

13 (3) The provisions of subsections (1) and (2) of this section apply
14 unless the parties agree otherwise.

15 (4) An electronic communication is deemed to be sent from the
16 sender's place of business and received at the addressee's place of business.

17 (5) If the sender or the addressee has more than one place of
18 business, the place of business for the purposes of subsection (4) of this
19 section is the one with the closest relationship to the underlying transaction
20 to which the electronic communication relates or, if there is no underlying
21 transaction, the person's principal place of business.

22 (6) If the sender or addressee does not have a place of business, the
23 person's place of habitual residence is deemed to be the place of business for
24 the purposes of subsection (4) of this section.

25 **20.** An electronic communication is that of the person who sends
26 it, if it is sent directly by the person or by an information system
27 programmed by or on behalf of the person to operate automatically.

Attribution of
electronic
communication
consumer
protection

28 **21.**-(1) A person using electronic communications to sell goods or
29 services to consumers shall provide accurate, clear and accessible
30 information about themselves, sufficient to allow-

Regulation

1 (a) identify the legal name of the person, its principal geographic
2 address, and an electronic means of contact or telephone number;

3 (b) facilitate prompt, easy and effective consumer communication
4 with the seller; and

5 (c) allow service of legal process.

6 (2) A person using electronic communications to sell goods or
7 services to consumers shall provide accurate and accessible information
8 describing the goods or services offered, sufficient to enable consumers to
9 make an informed decision about the proposed transaction and to maintain an
10 adequate records of the information.

11 (3) A person using electronic communications to sell goods or
12 services to consumers shall provide information about the terms, conditions
13 and costs associated with a transaction, and notably-

14 (a) terms, conditions and methods of payment; and

15 (b) details of and conditions related to withdrawal, termination,
16 return, exchange, cancellation and refund policy information.

Interpretation

17 22.-(1) In this Bill, unless the context otherwise requires-

18 "electronic" includes created, recorded, transmitted or stored in digital or other
19 intangible form by electronic, magnetic, optical or by any other means that has
20 capabilities for creation, recording, transmission or storage similar to those
21 means;

22 "electronic signature" means information in electronic form that a person has
23 created or adopted in order to sign a document and that is in, attached to or
24 associated with a document;

25 "Minister" means Attorney-General of the Federation;

26 "public body" includes-

27 (a) a Minister, Ministry or Department or Agency of Government;

28 (b) courts;

29 (c) bodies exercising statutory authority of legislative, executive or
30 judicial nature;

- 1 (d) State governments or Local Government Councils or Area
2 Councils;
3 "information system" means a system for generating, sending, receiving,
4 storing or otherwise processing electronic communications;
5 "rule of law" means the common law, legislation, and subsidiary
6 legislation.
7 **23.** This Bill may be cited as the Electronic Transactions Bill,
 2016.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the facilitation of electronic commerce in
Nigeria.