

- Fantastic Beasts and Where to Find Them -

**A Guide to Exemptions in the Electronic Transactions
Act (ETA) in Australia (September 2004)**

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1. Introduction

Welcome to the maze of the Electronic Transactions Acts (ETAs) in Australia. You will need a large ball of string, or perhaps some bread crumbs. You will also need patience and an eye for detail.

This article provides an overview of the Commonwealth ETA and the eight State and Territory ETAs, with a focus on the many exemptions and how to find them. This is an important area of law for many new technology implementations involving electronic communication. If a particular transaction is exempt from the ETA in one or more jurisdictions, this can present a significant barrier to the use of electronic communication. For example, a wholly electronic process for selling consumer credit products is not viable in many Australian jurisdictions, because consumer credit laws requiring hard copy disclosure documents are exempted from the relevant ETAs.

Identifying and locating the relevant ETA exemption can be a difficult and time-consuming task. This article provides some guidance through the ETA maze, and includes an appendix listing common exemptions and their location.

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⁵ HTML version of paper: http://consult.galexia.com/public/research/articles/research_articles-art30.html.

⁶ PDF version of paper: http://consult.galexia.com/public/research/assets/gc_eta_200409.pdf.

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2. The Australian Electronic Transactions Act(s)

The inspiration for the Australian Electronic Transactions Act(s) is the UNCITRAL Model Law on Electronic Commerce⁷ (the Model Law). The Model Law was drafted by the United Nations Commission on International Trade Law (UNCITRAL) in 1996 to assist countries in the framing of legislation which would enable and facilitate electronic commerce and electronic government. The Model Law adopts a limited framework approach. It is not intended to be a comprehensive code-like articulation of the rules for electronic transactions, nor is it intended to govern every aspect of electronic contracting. Rather, the aim is to provide essential procedures and principles for electronic contracting. At the same time the UNCITRAL Model Law, in certain areas, offers enacting States a broad discretion to tailor the Model Law to meet a particular country's needs.

The underlying analytical approach of the UNCITRAL Model Law is the 'functional equivalence' approach. This approach evaluates the underlying purposes and functions of traditional paper-based legal requirements and assesses to what extent electronic transactions can meet these purposes and functions. Where electronic transactions can satisfy the purposes and functions, the UNCITRAL Model Law requires that they be given equal status. In effect, it puts electronic communications on par with traditional paper-based modes of communication. Therefore, rather than rewriting the law, the UNCITRAL Model Law seeks to extend the scope of standard national legal definitions of 'writings', 'signatures' and 'originals' to encompass their electronic counterparts.

In Australia, the UNCITRAL Model Law has been adopted through the *Electronic Transactions Act 1999* (Cth)⁸ (ETA). The ETA states that transactions taking place under a law of the Commonwealth will not be invalid just because they are completed electronically.

The ETA is based on two principles:

- **1. Functional equivalence**
Paper documents and electronic transactions are treated equally by the law.
- **2. Technology neutrality**
The law does not discriminate between different forms of technology.

The ETA allows business and government to fulfil, in electronic form, any of the following requirements:

- **Giving information in writing;**
- **Providing a handwritten signature;**
- **Producing a document in material form; and**
- **Recording or retaining information.**

The ETA also provides a legal framework for electronic contracting. The Act is technology neutral in that it enables electronic transactions to occur without prescribing the use of particular types of technology.

The key sections are:

- **Section 8 – General**
A transaction is not invalid because it took place wholly or partly by means of one of more electronic communications.
- **Section 10 – Signatures**
If the signature of a person is required, that requirement may be met by use of an electronic method as long as:
 - The method is used to identify the person and to indicate their approval of the transaction;

⁷ <<http://www.uncitral.org/english/texts/electcom/ml-ecomm.htm>>.

⁸ <<http://scaleplus.law.gov.au/html/pasteact/3/3328/top.htm>>.

- The method is as reliable as appropriate for the purposes of the transaction; and
- The signature recipient consents.
- **Section 11 – Documents**
A person can produce a document in the form of an electronic communication where other laws require the production of a paper document.
- **Section 12 – Records**
If a person is required to record or retain information or documentation in writing, that requirement can be met by retaining or recording the information in electronic form.

In order to achieve national uniformity all States and Territories have passed Electronic Transactions Acts that complement the Commonwealth's ETA. This layer of state legislation therefore covers private sector transactions. The State and Territory counter-parts are:

- Australian Capital Territory – *Electronic Transactions Act 2001 (ACT)*
- New South Wales – *Electronic Transactions Act 2000 (NSW)*
- Northern Territory – *Electronic Transactions Act 2001 (NT)*
- Queensland – *Electronic Transactions Act 2001 (Qld)*
- South Australia – *Electronic Transactions Act 2000 (SA)*
- Tasmania – *Electronic Transactions Act 2000 (Tas)*
- Victoria – *Electronic Transactions Act 2000 (Vic)*
- Western Australia – *Electronic Transactions Act 2003 (WA)*

The State and Territory ETAs are generally a mirror of the Commonwealth ETA, with occasional small differences in definitions⁹, and occasional additional sections¹⁰. However, where the mirror breaks, indeed shatters, is in their approach to exemptions. The scope, type and location of exemptions differ markedly between jurisdictions.

3. Exemptions

It is the numerous exemptions to the Commonwealth ETA and the State and Territory ETAs which cause the real confusion in this area of law. Having set up a series of Acts which appear, on their face, to enable an electronic communication to meet the requirements of writing, signatures, material form and record-keeping, the exemptions then strip away all or part of these provisions in a variety of scenarios.

Exemptions do serve their role, and of course some limited exemptions may be justified. Requirements for some paper based documents and real signatures may be with us for some time to come. However, it is the complexity and inconsistency of the exemptions that is most worrying for electronic commerce. It is hard to have confidence in the legal validity or enforceability of an electronic communication if there is a chance that it is subject to an obscure exemption. This situation is not helped by the difficulty faced in locating and identifying relevant exemptions.

⁹ Compare, for example, the definition of consent in the Commonwealth and Victorian ETAs.

¹⁰ See for example the detailed and lengthy section (Part 2A) on electronic courts in the *Electronic Transactions Act 2000 (NSW)*.

The exemptions are incredibly inconsistent across jurisdictions – both in their application and their location. Some jurisdictions have exempted numerous pieces of legislation, while other jurisdictions have exempted virtually nothing. The exemptions are also provided in different locations across jurisdictions making the process of identifying exemptions difficult and time consuming.

Overall, these exemptions reduce legal certainty in electronic commerce, which was a key objective of both the Model Law and the ETA.

3.1. Types of exemptions

There are several broad types of exemptions that can be found in the ETAs:

- **General Exemptions**
Some general activities or requirements may be exempt from the relevant ETA. These exemptions do not refer to a particular legal requirement set out in a specific piece of legislation. Rather they refer to a broad category of activity. Common (although inconsistent) examples are:
 - Signing a will;
 - Signing an enduring Power of Attorney;
 - Witnessing a document;
 - Lodging a court document; or
 - Meeting the requirements of personal service of a document.
- **Exempt Legislation**
The requirements of specific, named pieces of legislation may be exempt from the relevant ETA. This type of exemption is common, although again it is inconsistent across jurisdictions. The Commonwealth have exempted or partially exempted 157 pieces of legislation. Some States and Territories have not exempted any specific legislation. A common example of exempt legislation is Consumer Credit legislation, which is fully exempted in three jurisdictions.
- **Applicable Provisions of Exempt Legislation**
Where legislation has been exempted, the exemption may sometimes only apply to particular requirements of the named piece of legislation. On some occasions this is very specific – such as a particular section or sub-section. On other occasions the exemption may cover a Part or a Division. This type of partial exemption is common at the Commonwealth level but is also used in several State jurisdictions.
- **Applicable Provisions of the ETA**
Where a named piece of legislation has been fully or partially exempted from the ETA, the exemption may be further limited to particular provisions of the ETA (this is also true for the general exemptions discussed above). Sometimes the exemption will be restricted to the recognition of electronic signatures, or writing, but not the other provisions of the ETA.

- **Over-riding Legislation**
In rare circumstances, another piece of legislation may contain provisions that purport to specifically override the operation or partial operation of the relevant ETA. In these circumstances the legislation will specifically refer to the ETA (or an individual provision of the ETA) limiting its application to a particular set of circumstances.¹¹

3.2. Finding Exemptions

Let us now turn to the question of identifying and locating exemptions to the ETA. There are four possible locations for an exemption:

- **The Act**
In most jurisdictions the Act will contain a provision noting that exemptions exist, and pointing to their location in another document. In some jurisdictions, however, an exemption will be located in the main body of the ETA.¹²
- **The Schedule**
In two jurisdictions exemptions are contained in a Schedule to the Act. Note, however, that even in these circumstances the Schedule does not provide a definitive list of exemptions.
- **The Regulations**
In seven jurisdictions, exemptions can be found in Regulations under the ETA. This is the most common location for exemptions – although even in these jurisdictions the Regulations do not provide a definitive list of exemptions.
- **Expired Exemptions**
Some exemptions were subject to expiry or transitional periods. These exemptions were provided to give Government agencies and the private sector time to adapt to electronic commerce. Most expiry periods have now passed, but they will still be relevant for litigation concerning electronic communications that were made during the transitional period. Relevant periods are usually noted in the Act.¹³
- **Overriding Legislation**
In rare circumstances exemptions may be contained in the provisions of other legislation that purport to override provisions of the ETA.

The best advice for finding exemptions to the ETA is to “assume nothing”. Even though an exemption may be absent in one location, such as the Regulations, you cannot assume that it is not hiding in the Act or a Schedule or another piece of legislation entirely. It is also unwise to assume that an exemption in one jurisdiction might be found in another, or that an obvious candidate for exemption, such as signing wills, is exempt in all jurisdictions.

¹¹ See for example the time of receipt provisions that specifically override the ETA in the *Migration Legislation Amendment (Electronic Transactions and Methods of Notification) Act No. 58, 2001* (Cth).

¹² See for example Section 14R of the *Electronic Transactions Act 2000* (NSW), which exempts some court related documents.

¹³ See for example Section 7A (2) of the *Electronic Transactions Act 2001* (Qld).

3.3. A step-by-step guide to identifying exemptions:

1. Choose the relevant jurisdiction or jurisdictions for the electronic communication in question;
2. Check the date of coverage for the relevant ETA or ETAs – note that each jurisdiction’s ETA came into force on a different date;
3. Review a consolidated version of the relevant ETA or ETAs, checking for specific exemptions and guidance to the location of additional exemptions;
4. Check for any exemptions contained in a Schedule;
5. Review a consolidated version of the relevant ETA Regulations; checking for specific exemptions;
6. Check for any expiry periods which affect exemptions (usually noted in the Act);
7. Determine the scope of the exemption – note that the majority of exemptions are partial exemptions; and
8. Check for any relevant overriding legislation in sector-specific legislation that is relevant to the electronic communication in question.

4. Future Developments

The current ETA maze needs to be considered in the light of two important (potential) developments in the law of electronic commerce. The first development is that the Model Law on which the ETA is based may be partly superseded by an international Convention on electronic contracting. The second development is that Australian Courts may have found a way to deliver the objectives of the ETA in some circumstances without reference to specific legislation.

4.1. The UNCITRAL Draft Convention on Electronic Contracting

The current work of the UNCITRAL Electronic Commerce Working Group (ECWG) on the draft convention on electronic contracting is directed at achieving an UNCITRAL recommendation to:

“Prepare an international instrument dealing with selected issues on electronic contracting and a comprehensive survey of possible legal barriers to the development of electronic commerce in international instruments.”¹⁴

The first draft of the convention was presented for review at ECWG’s meeting of its 39th session (2002, New York)¹⁵, and since then review and modification of the draft convention has played a leading role in subsequent meetings of the working group. Two weeks have been set aside for final discussion of the draft convention text at the 44th session of the ECWG (11-22 October 2004, Vienna).

If the Convention is approved and Australia decides to become a signatory, the ETA may require further amendment before Australia can ratify the Convention.. The Convention closely resembles the UNCITRAL Model Law (and thus the ETA), but the latest draft does contain three significant additional provisions and other minor changes.

¹⁴ This recommendation was made at UNCITRAL’s meeting of its thirty-fourth session (25 June-13 July 2001, Vienna).

¹⁵ Available at: <http://www.uncitral.org/english/workinggroups/wg_ec/wp-95e.pdf>.

4.2. Case Law - Accommodating Technological Change

The operation of the ETA has been briefly affirmed in several Australian cases¹⁶. There is, however, only one case that is relevant to a discussion of ETA exemptions¹⁷ - the case of *McGuren v Simpson*¹⁸. This is an unusual case and it has the potential to significantly alter our understanding of the reach of the ETA.

Currently we think of the ETA as enabling legislation which overcomes requirements for writing or signatures (except where exemptions apply). In *McGuren* the Court found that the *Electronic Transactions Act* (2000) NSW did *not* apply (the relevant electronic communication was sent prior to the commencement of the Act), but still held that an email communication satisfied the requirements of writing and signature under section 54 of the *Limitation Act* (1969) NSW¹⁹.

This is significant because the communication in question was a very short email with a simple name typed in plain text at the end of the email – the most common form of electronic communication. The specific legal requirement in question was Section 54(4) of the *Limitation Act* (1969) NSW, which states:

“Section 54 (4): An acknowledgment for the purposes of this section must be in writing and signed by the maker.”

It is hard to see how such a specific requirement for writing and a signature could be met by a simple email in the absence of the ETA. However, the Court used the concept of “accommodating technological change”²⁰ to conclude that older legislative requirements for writing and signature could now be read to include email, without the need for specific enabling legislation such as the ETA.

So, even where exemptions to the ETA exist, it may be open to the Courts to apply the concept of “accommodating technological change” to find that an electronic communication meets the requirement for writing and/or signatures. Obviously the Courts may be reluctant to do so in circumstances where legislators have specifically excluded a particular requirement from the ETA, but *McGuren* certainly adds another layer to the debate.

¹⁶ See *Ford v La Forest* [2001] QSC 261 (affirmed on appeal in *Ford v La Forrest* [2001] QCA 455) and *Szaeg v Minister for Immigration* [2003] FMCA 258.

¹⁷ For an interesting discussion of how similar exemptions apply in the United States, see: Attorney General of Texas, Opinion on Uniform Electronic Transaction Act (UETA), Opinion No. GA-0228: <<http://www.oag.state.tx.us/opinions/op50abbott/ga-0228.htm>>.

¹⁸ *McGuren v Simpson* [2004] NSWSC 35.

¹⁹ <<http://www.legislation.nsw.gov.au/fullhtml/inforce/act+31+1969+FIRST+0+N>>

²⁰ See *Lockheed-Arabia v Owen* [1993] 3 All ER 641.

5. Appendix - Exemptions in Australian ETAs

5.1. Australia - *Electronic Transactions Act 1999 (Cth)*

Location of Exemptions to Act

Location	Exemptions?
<i>Electronic Transactions Act 1999 (Cth)</i> < http://scaleplus.law.gov.au/html/pasteact/3/3328/top.htm >	Yes
Schedule to the Act - Yes	Yes
<i>Electronic Transactions Regulations 2000 (Cth)</i> < http://scaleplus.law.gov.au/html/pastereg/3/1579/top.htm >	Yes

General Exemptions

Categories	Exempt?	Applicable Provisions of the <i>Electronic Transactions Act</i>
Witnesses	No	–
Wills	No	–
Personal Service/Post	No	–
Court Documents	Yes	<ul style="list-style-type: none"> Part 2 Division 2 - Application of legal requirements to electronic communications - Requirements under laws of the Commonwealth
Power of Attorney	No	–

Exempted Legislation

Legislation (A sample of the 157 pieces of legislation exempted)	Applicable Provisions of Exempt Act	Applicable Provisions of the <i>Electronic Transactions Act</i>
<i>Aged Care Act 1997 (Cth)</i>	Numerous Sections and Subsections	<ul style="list-style-type: none"> Section 9 - Writing; Section 10 - Signature; and Section 11 - Production of a document
	Subsections 8(4), 9(1), 9(2), 9(3), 22(5), 33(4), 38(5), 39(3), 39(5) and 71(3)	<ul style="list-style-type: none"> Section 11 - Production of a document
<i>Banking Act 1959 (Cth)</i>	Subsections 13 (1) and 62 (1)	<ul style="list-style-type: none"> Subsection 8(1) - Validity of electronic transactions; Part 2 Division 2; Section 14 - Time and place of dispatch and receipt of electronic communications; and Section 15 - Attribution of electronic communications

Legislation (A sample of the 157 pieces of legislation exempted)	Applicable Provisions of Exempt Act	Applicable Provisions of the <i>Electronic Transactions Act</i>
<i>Cheques Act 1986 (Cth)</i>	All	<ul style="list-style-type: none"> • Subsection 8(1) - Validity of electronic transactions; • Part 2 Division 2; • Section 14 - Time and place of dispatch and receipt of electronic communications; and • Section 15 - Attribution of electronic communications
<i>Corporations Law</i>	All	<ul style="list-style-type: none"> • Subsection 8(1) - Validity of electronic transactions; • Part 2 Division 2 • Section 14 - Time and place of dispatch and receipt of electronic communications; and • Section 15 - Attribution of electronic communications
<i>Disability Services Act 1986 (Cth)</i>	Section 27	<ul style="list-style-type: none"> • Section 9 - Writing; • Section 10 - Signature; and • Section 11 - Production of a document
<i>Evidence Act 1995 (Cth)</i>	All	<ul style="list-style-type: none"> • Part 2 Division 2
	Sections 161, 162	<ul style="list-style-type: none"> • Section 14 - Time and place of dispatch and receipt of electronic communications
<i>Health Insurance Act 1973 (Cth)</i>	Sections 3GA, 3GB, 3J, 3K, 19AB and 19AC	<ul style="list-style-type: none"> • Section 9 - Writing; • Section 10 - Signature; and • Section 11 - Production of a document
	Sections 89B, 105A and 106B	<ul style="list-style-type: none"> • Section 11 - Production of a document
<i>Home and Community Care Act 1985 (Cth)</i>	All	<ul style="list-style-type: none"> • Section 9 - Writing; • Section 10 - Signature; and • Section 11 - Production of a document
<i>Safety, Rehabilitation and Compensation Act 1988 (Cth)</i>	Subsection 54 (2), section 58 and subsection 71 (1)	<ul style="list-style-type: none"> • Subsection 8(1) – Validity of electronic transactions; • Part 2 Division 2 • Section 14 - Time and place of dispatch and receipt of electronic communications; and • Section 15 - Attribution of electronic communications
<i>Therapeutic Goods Act 1989 (Cth)</i>	All	<ul style="list-style-type: none"> • Part 2 Division 2
<i>Trade Practices Act 1974 (Cth)</i>	Sections 44ZH and 65Q, subsection 75AY (2) and sections 87B, 152DD, 155 and 155A	<ul style="list-style-type: none"> • Subsection 8(1) – Validity of electronic transactions; • Part 2 Division 2 • Section 14 - Time and place of dispatch and receipt of electronic communications; and • Section 15 - Attribution of electronic communications

5.2. Australian Capital Territory - *Electronic Transactions Act 2001 (ACT)*

Location of Exemptions to Act

Location	Exemptions?
<i>Electronic Transactions Act 2001 (ACT)</i> < http://www.legislation.act.gov.au/a/2001-10/current/pdf/2001-10.pdf >	Yes
Schedule to the Act – No	–
Regulations – Not yet enacted	Yes

General Exemptions

Currently there are no general exemptions under the *Electronic Transactions Act 2001 (ACT)*

Exempted Legislation

Currently there is no legislation specifically exempted under the *Electronic Transactions Act 2001 (ACT)*.

5.3. New South Wales - *Electronic Transactions Act 2000 (NSW)*

Location of Exemptions to Act

Location	Exemptions?
<i>Electronic Transactions Act 2000 (NSW)</i> < http://www.legislation.nsw.gov.au/fullhtml/inforce/act+8+2000+FR+0+N >	Yes
Schedule to the Act – No	–
<i>Electronic Transactions Regulation 2001 (NSW)</i> < http://www.legislation.nsw.gov.au/fullhtml/inforce/subordleg+949+2001+FIRST+0+N >	Yes

General Exemptions

Categories	Exempt?	Applicable Provisions of the <i>Electronic Transactions Act</i>
Witnesses	Yes	<ul style="list-style-type: none"> Part 2 Division 2
Wills	No	–
Personal Service/Post	Yes	<ul style="list-style-type: none"> Part 2 Division 2
Court Documents	Yes	<ul style="list-style-type: none"> Part 2
Power of Attorney	No	–

Exempted Legislation

Legislation	Applicable Provisions of Exempt Act	Applicable Provisions of the <i>Electronic Transactions Act</i>
<i>Consumer Credit (New South Wales) Code 1995 (NSW)</i> (and regulations)	All	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2
<i>Conveyancing Act 1919 (NSW)</i>	Section 23C - Instruments required to be in writing	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2
<i>Election Funding Act 1981 (NSW)</i>	All	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2
<i>Freedom of Information Act 1989 (NSW)</i>	All	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2
<i>Legal Profession Act 1987 (NSW)</i>	All	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2
<i>Local Government Act 1993 (NSW)</i>	Chapter 10 - How are people elected to civic office?	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2
<i>Parliamentary Electorates and Elections Act 1912 (NSW)</i>	All	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2
<i>Poisons and Therapeutic Goods Act 1966 (NSW)</i>	All	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2

5.4. Northern Territory - *Electronic Transactions Act 2000 (NT)*

Location of Exemptions to Act

Location	Exemptions?
<i>Electronic Transactions Act 2000 (NT)</i> < http://notes.nt.gov.au/dcm/legislat/legislat.nsf?OpenDatabase >	Yes
Schedule to the Act – No	–
<i>Electronic Transactions Regulations 2001 (NT)</i> < http://notes.nt.gov.au/dcm/legislat/legislat.nsf?OpenDatabase >	Yes

General Exemptions

Categories	Exempt?	Applicable Provisions of the <i>Electronic Transactions Act</i>
Witnesses	No	–
Wills	Yes	<ul style="list-style-type: none"> • Section 7(1) • Part 2 Division 2
Personal Service/Post	Yes	<ul style="list-style-type: none"> • Section 7(1) • Part 2 Division 2
Court Documents	No	–
Power of Attorney	Yes	<ul style="list-style-type: none"> • Section 7(1) • Part 2 Division 2

Exempted Legislation

Currently there is no legislation specifically exempted under the *Electronic Transactions Act 2000 (NT)*.

5.5. Queensland - *Electronic Transactions Act 2001 (Qld)*

Location of Exemptions to Act

Location	Exemptions?
<i>Electronic Transactions Act 2001 (Qld)</i> < http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/ElectronTrQA01.pdf >	Yes
Schedule to the Act - Yes	Yes
Regulations – Not yet enacted	–

General Exemptions

Categories	Exempt?	Applicable Provisions of the <i>Electronic Transactions Act</i>
Witnesses	Yes	All
Wills	No	–
Personal Service/Post	Yes	All
Court Documents	Yes	All
Power of Attorney	No	–

Exempted Legislation

Currently there is no legislation specifically exempted under the *Electronic Transactions Act 2001 (Qld)*. A long list of legislation was exempted, however these exemptions expired two years after the commencement of the Act (see Section 7A (2)).

5.6. South Australia - *Electronic Transactions Act 2000 (SA)*

Location of Exemptions to Act

Location	Exemptions?
<i>Electronic Transactions Act 2000 (SA)</i> < http://www.parliament.sa.gov.au/Catalog/legislation/Acts/E/2000.72.htm >	Yes
Schedule to the Act – No	–
<i>Electronic Transactions Regulations 2002 (SA)</i> < http://www.parliament.sa.gov.au/Catalog/legislation/Acts/E/2002.167.un.htm >	Yes

General Exemptions

Categories	Exempt?	Applicable Provisions of the <i>Electronic Transactions Act</i>
Witnesses	Yes	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2
Wills	No	–
Personal Service/Post	Yes	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2
Court Documents	No	–
Power of Attorney	No	–
Dispositions in Land	Yes (subject to some minor exceptions contained in regulations 4 and 5 of the <i>Electronic Transactions Regulations</i>)	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2

Exempted Legislation

Legislation (A sample of the 3 pieces of legislation exempted)	Applicable Provisions of Exempt Act	Applicable Provisions of the <i>Electronic Transactions Act</i>
<i>Consumer Credit (South Australia) Code 1995 (SA)</i>	All	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2
<i>Second-hand Dealers and Pawnbrokers Act 1996 (SA)</i>	Section 13 - Provisions of Special Application to Pawnbrokers - Pawn Tickets	<ul style="list-style-type: none"> Section 7(1) Part 2 Division 2

5.7. Tasmania - *Electronic Transactions Act 2000 (Tas)*

Location of Exemptions to Act

Location	Exemptions?
<i>Electronic Transactions Act 2000 (Tas)</i> < http://www.thelaw.tas.gov.au >	Yes
Schedule to the Act – No	–
<i>Electronic Transactions Regulations 2001 (Tas)</i> < http://www.thelaw.tas.gov.au >	Yes

General Exemptions

Categories	Exempt?	Applicable Provisions of the <i>Electronic Transactions Act</i>
Witnesses	No	–
Wills	Yes	<ul style="list-style-type: none"> • Section 5(1) - Validity of electronic transactions; and • Part 2 Division 2
Personal Service/Post	Yes	<ul style="list-style-type: none"> • Section 5(1) - Validity of electronic transactions; and • Part 2 Division 2
Court Documents	No	–
Power of Attorney	Yes	<ul style="list-style-type: none"> • Section 5(1) - Validity of electronic transactions; and • Part 2 Division 2

Exempted Legislation

Legislation	Applicable Provisions of Exempt Act	Applicable Provisions of the <i>Electronic Transactions Act</i>
<i>Corporations Law of Tasmania</i>	All	<ul style="list-style-type: none"> • Section 5(1) - Validity of electronic transactions; and • Part 2 Division 2

5.8. Victoria - *Electronic Transactions Act 2000 (Vic)*

Location of Exemptions to Act

Location	Exemptions?
<i>Electronic Transactions Act 2000 (Vic)</i> < http://www.dms.dpc.vic.gov.au/ >	Yes
Schedule to the Act – No	–
<i>Electronic Transactions Regulations 2000 (Vic)</i> < http://www.dms.dpc.vic.gov.au/ >	Yes

General Exemptions

Categories	Exempt?	Applicable Provisions of the <i>Electronic Transactions Act</i>
Witnesses	No	–
Wills	Yes	<ul style="list-style-type: none"> • Section 7(1) • Part 2 Division 2
Personal Service/Post	Yes	<ul style="list-style-type: none"> • Section 7(1) • Part 2 Division 2
Court Documents	No	–
Power of Attorney	No	–

Exempted Legislation

Currently there is no legislation specifically exempted under the *Electronic Transactions Act 2000 (Vic)*.

5.9. Western Australia - *Electronic Transactions Act 2003 (WA)*

Location of Exemptions to Act

Location	Exemptions?
<i>Electronic Transactions Act 2003 (WA)</i> < http://www.slp.wa.gov.au/statutes/swans.nsf >	Yes
Schedule to the Act – No	–
<i>Electronic Transactions Regulations 2003 (WA)</i> < http://www.slp.wa.gov.au/statutes/swans.nsf >	Yes

General Exemptions

Categories	Exempt?	Applicable Provisions of the <i>Electronic Transactions Act</i>
Witnesses	Yes	<ul style="list-style-type: none"> • Section 7(1) • Part 2 Division 2
Wills	Yes	<ul style="list-style-type: none"> • Section 7(1) • Part 2 Division 2
Personal Service/Post	Yes	<ul style="list-style-type: none"> • Section 7(1) • Part 2 Division 2
Court Documents	No	–
Powers of Attorney	Yes	<ul style="list-style-type: none"> • Section 7(1) • Part 2 Division 2

Exempted Legislation

Legislation	Applicable Provisions of Exempt Act	Applicable Provisions of the <i>Electronic Transactions Act</i>
<i>Consumer Credit (Western Australia) Code 1996 (WA)</i> (and Regulations)	All	<ul style="list-style-type: none"> • Section 7(1) • Part 2 Division 2