



dti

**ACHIEVING BEST PRACTICE
IN YOUR BUSINESS**

Information Security:
Guide to the Electronic
Communications Act 2000



The DTI drives our ambition of 'prosperity for all' by working to create the best environment for business success in the UK. We help people and companies become more productive by promoting enterprise, innovation and creativity.

We champion UK business at home and abroad. We invest heavily in world-class science and technology. We protect the rights of working people and consumers. And we stand up for fair and open markets in the UK, Europe and the world.

Achieving best practice in your business is a key theme within DTI's approach to business support solutions, providing ideas and insights into how you can improve performance across your business. By showing what works in other businesses, we can help you see what can help you, and then support you in implementation. This brochure focuses on these solutions.

The Electronic Communications Act 2000 contributes to making the UK the best and safest place to do electronic commerce. It aims to build confidence in electronic communications, and creates a legal framework for electronic commerce to thrive, both in the private and public sectors.

This brochure is for: All businesses that buy or sell electronically.

It covers: The importance of secure electronic trading and an overview of the Act.





Electronic commerce has grown rapidly in recent years. By early 2004 about 90% of UK businesses had access to the internet and increasing numbers of these businesses are involved in e-commerce – ordering and paying online.

Businesses need confidence and trust in trading electronically. They need to be certain that transmitted orders or invoices have not been altered, and that they are from whom they appear to be from. They need to be able to trust that others cannot access confidential or personal information.



Cryptography and electronic signatures are important for electronic transactions:

- Cryptography has long been applied by banks and government, and is an essential tool for electronic commerce.
- Cryptography encrypts documents or messages, which ensures they remain confidential. It can be used as the basis of an electronic signature.
- An electronic signature is associated with an electronic

document and has a similar function to a manual signature. It can confirm that the communication is authentic and hasn't been tampered with.

The owner of an electronic signature can be verified in several ways, for example through a certificate provided by a trust service provider. Other information relating to electronic signatures or encryption keys is also normally held in a certificate, which is signed by a trust service provider.



The Act is part of the legislative framework to support electronic communications and transactions, along with the Electronic Signatures Regulations 2002, and the Electronic Commerce (EC Directive) Regulations 2002.

- It provides a fallback to a statutory 'approvals' scheme, if self-regulation does not work, that will ensure the quality of electronic signature and other cryptography support services.
- It clarifies the legal status of electronic signatures.
- It gives the Government power to update legislation, and offer electronic communication and storage as an alternative to paper.

The Act is in three parts:

PART I (SECTIONS 1-6)

Cryptography Service Providers

This would allow the Government to set up a voluntary approval scheme for bodies providing cryptography services (such as electronic signature and confidentiality support services) to businesses and the public. It has not been brought into force, and the industry-led tScheme is fulfilling this approvals function.

A statutory scheme will only be introduced if an industry-led scheme fails. The tScheme is a membership scheme for trust service providers that will ensure minimum standards of approval and service. It gives independent assurance that trust service providers meet quality standards.

The Electronic Communications

PART II (SECTIONS 7-10)

Facilitation of electronic commerce, data storage etc

Section 7 makes clear that electronic signatures, supporting certificates and the processes under which such signatures and certificates are created, issued and used can be admitted as evidence in court.

The court will decide whether an electronic signature has been correctly used and what weight it should be given. In disputes where, for example, electronic signatures are fraudulently created, or where people deny having signed payments, the electronic signature and supporting certificates can be supplied as evidence to the court.

Section 7 does not affect any contracts that businesses already have in place regarding electronic

communications. Nor does the Act mandate the use of electronic signatures, or specify particular formats or methods. The legislation aims to be technology-neutral and covers all types of electronic signature, from those based on e-mail exchanges to those using public key cryptography or biometric techniques.

Section 8 allows Ministers to amend existing legislation so that transactions or contracts no longer have to be done in writing and can instead use electronic communications or storage. One example is the Companies Act 1985 – companies can now produce annual reports and accounts electronically and can accept nominations for proxies electronically. They can also facilitate the electronic incorporation and filing of certain documents and forms.

Act 2000



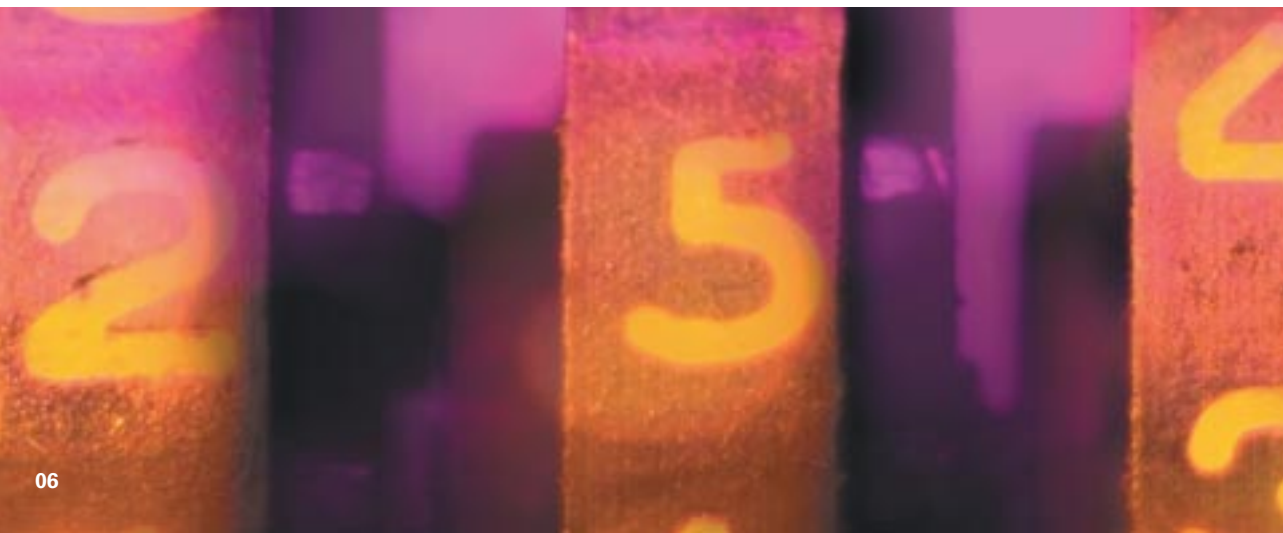


PART III (SECTION 11-16)

Telecommunications licences and supplemental

Sections 11 and 12 of the Act simplified the process under which existing telecommunications licences can be modified. This is no longer in force, having been replaced by Chapter 1, Part 2 of the Communications Act 2003.

Sections 14 to 16 are supplemental, concerning prohibition on key escrow requirements, interpretation, and commencement of the Act.





Details of legislation

If you require a detailed clause-by-clause summary of the Act, please see the explanatory notes on the HMSO website www.hmso.gov.uk

This publication highlights the most important provisions but is not intended as a comprehensive guide, nor does it constitute legal advice on the application of the Act.

International issues

The Act implements certain provisions of the Electronic Signatures Directive (1999/93/EC). The Directive sets out a legal framework for the use of electronic signatures across the European Union.

The Act is also consistent with the principles developed in the Uniform Rules on electronic signatures and certification authorities by the United Nations Commission on International Trade Law (UNCITRAL).



Further help and advice

INFORMATION SECURITY ISSUES

- The Electronic Communications Act 2000 and the accompanying explanatory notes can be found on the HMSO website. The site also features details of the statutory instruments made under Section 8 of the Act www.hmso.gov.uk
- Paper copies can be obtained from the Stationery Office (www.tso.co.uk) and Stationery Office bookshops
- Information on tScheme is available at www.tScheme.org
- The Transposition Note for the Electronic Signatures Directive 1999/93/EC is available at www.dti.gov.uk/industries/information_security

For help and advice on information security issues contact:

The Information Security Policy Team
Department of Trade and Industry
151 Buckingham Palace Road
London SW1W 9SS
Tel: 020 7215 1962
Fax: 020 7215 1966
E-mail: InfosecPolicyTeam@dti.gsi.gov.uk

Further guidance and a full listing of all our information security publications can be found at: www.dti.gov.uk/industries/information_security

Or look at our information security business advice pages at: www.dti.gov.uk/bestpractice/infosec

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To access free information and publications on best practice:

- visit our website at www.dti.gov.uk/bestpractice
- call the DTI Publications Orderline on 0870 150 2500 or visit www.dti.gov.uk/publications

SUPPORT TO IMPLEMENT BEST BUSINESS PRACTICE

To get help bringing best practice to your business, contact Business Link – the national business advice service. Backed by the DTI, Business Link is an easy-to-use business support and information service, which can put you in touch with one of its network of experienced business advisers.

- Visit the Business Link website at www.businesslink.gov.uk
- Call Business Link on 0845 600 9 006

Examples of products and companies included in this leaflet do not in any way imply endorsement or recommendation by DTI. Bear in mind that prices quoted are indicative at the time it was published.

GENERAL BUSINESS ADVICE

You can also get a range of general business advice from the following organisations:

England

- Call Business Link on 0845 600 9 006
- Visit the website at www.businesslink.gov.uk

Scotland

- Call Business Gateway on 0845 609 6611
- Visit the website at www.bgateway.com

Wales

- Call Business Eye/Llygad Busnes on 08457 96 97 98
- Visit the website at www.busesseye.org.uk

Northern Ireland

- Call Invest Northern Ireland on 028 9023 9090
- Visit the website at www.investni.com

