

Public Records Brief

A RECORDKEEPING UPDATE FOR QUEENSLAND PUBLIC AUTHORITIES – FIRST ISSUED SEPTEMBER 2003
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The implications of the Electronic Transactions (Queensland) Act 2001 for Government recordkeeping practices

The main purpose of the *Electronic Transaction Act 2001* (the Act) is to provide a legal and regulatory framework that promotes government, business and community use of electronic transactions. It seeks to achieve this outcome by giving electronic transactions legal recognition that is equal to paper-based transactions.

Assent was given to the Act on 7 June 2001. After a period of consultation by the Department of Justice and Attorney-General, the Act was proclaimed 31 October 2002 and commenced November 2002.

The Act raises significant implications for capturing, keeping and preserving electronic communications in electronic form for future reference. It provides that legal obligations outlined in other State and Federal laws can now be met through the use of electronic methods.

“Keepers” will need to provide the necessary recordkeeping policies, procedures and systems to ensure that legally recognised electronic records are captured, maintained preserved, and made accessible, not only in accordance with the Act but also in accordance with other laws such as the *Public Records Act 2002* and the *Freedom of Information Act 1992*.

The key provisions of the Act are:

- Under State and Federal legislation a transaction is not invalid merely because it uses an electronic medium (s8 (1)).
- Where a person is required under State and Federal law to “give information in writing” they may do so electronically (s11).
- Subject to the consent of the person to whom the signature is required to be given, legal recognition is given to electronically signed documents where specific methods identified by the Act (s14) are applied.
- Requirements under State or Federal legislation to retain a document can be met if the “keeper” records the information in an electronic form as detailed in s19 (2) and s20 of the Act.
- Section 21 allows for the storage of information contained in an electronic communication to be in electronic form provided its integrity and accessibility is retained.

The following recordkeeping policies and guidelines developed by Queensland State Archives will assist Queensland Public Authorities with developing recordkeeping strategies and systems that support compliance with the *Electronic Transactions Act 2001*:

- *Information Standard 31: Retention and Disposal of Government Information*
- *Information Standard 40: Recordkeeping*
- *Managing Records of Online Resources and Services Policy*
- *Managing Records of Online Resources and Services Guideline*
- *Emails that are Public Records Policy and Guideline*

For more information on the management of public records, visit the Queensland State Archives' website at <http://www.archives.qld.gov.au>, or contact us on:

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