



LAWS OF MALAYSIA

Act 562

DIGITAL SIGNATURE ACT 1997

LAWS OF MALAYSIA**Act 562****DIGITAL SIGNATURE ACT 1997**

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LAWS OF MALAYSIA

Act 562

DIGITAL SIGNATURE ACT 1997

An Act to make provision for, and to regulate the use of, digital signatures and to provide for matters connected therewith.

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BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

1. This Act may be cited as the Digital Signature Act 1997 and shall come into force on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for different provisions of this Act. Short title and commencement.

2. (1) In this Act, unless the context otherwise requires— Interpretation.

"accept a certificate" means—

- (a) to manifest approval of a certificate, while knowing or having notice of its contents; or
- (b) to apply to a licensed certification authority for a certificate, without revoking the application by delivering notice of the revocation to the

licensed certification authority, and obtaining a signed, written receipt from the licensed certification authority, if the licensed certification authority subsequently issues a certificate based on the application;

"asymmetric cryptosystem" means an algorithm or series of algorithms which provide a secure key pair;

"authorised officer" means an officer authorised under section 75;

"certificate" means a computer-based record which—

- (a) identifies the certification authority issuing it;
- (b) names or identifies its subscriber;
- (c) contains the subscriber's public key; and
- (d) is digitally signed by the certification authority issuing it;

"certification authority" means a person who issues a certificate;

"certification authority disclosure record" means an on-line and publicly accessible record which concerns a licensed certification authority which is kept by the Controller under subsection 3(5);

"certification practice statement" means a declaration of the practices which a certification authority employs in issuing certificates generally, or employed in issuing a particular certificate;

"certify" means to declare with reference to a certificate, with ample opportunity to reflect, and with a duty to apprise oneself of all material facts;

"confirm" means to ascertain through diligent inquiry and investigation;

"Controller" means the Controller of Certification Authorities appointed under section 3;

"correspond", with reference to keys, means to belong to the same key pair;

"digital signature" means a transformation of a message using an asymmetric cryptosystem such that a person having the initial message and the signer's public key can accurately determine—

- (a) whether the transformation was created using the private key that corresponds to the signer's public key; and
- (b) whether the message has been altered since the transformation was made;

"forge a digital signature" means—

- (a) to create a digital signature without the authorisation of the rightful holder of the private key; or
- (b) to create a digital signature verifiable by a certificate listing as subscriber a person who either does not exist or does not hold the private key corresponding to the public key listed in the certificate;

"hold a private key" means to be able to utilise a private key;

"incorporate by reference" means to make one message a part of another message by identifying the message to be incorporated and expressing the intention that it be incorporated;

"issue a certificate" means the act of a certification authority in creating a certificate and notifying the subscriber listed in the certificate of the contents of the certificate;

"key pair" means a private key and its corresponding public key in an asymmetric cryptosystem, where the public key can verify a digital signature that the private key creates;

"licensed certification authority" means a certification authority to whom a licence has been issued by the Controller and whose licence is in effect;

"message" means a digital representation of information;

"notify" means to communicate a fact to another person in a manner reasonably likely under the circumstances to impart knowledge of the information to the other person;

"person" means a natural person or a body of persons, corporate or unincorporate, capable of signing a document, either legally or as a matter of fact;

"prescribed" means prescribed by or under this Act or any regulations made under this Act;

"private key" means the key of a key pair used to create a digital signature;

"public key" means the key of a key pair used to verify a digital signature;

"publish" means to record or file in a repository;

"qualified certification authority" means a certification authority that satisfies the requirements under section 5;

"recipient" means a person who receives or has a digital signature and is in a position to rely on it;

"recognised date/time stamp service" means a date/time Stamp service recognised by the Controller under section 70;

"recognised repository" means a repository recognised by the Controller under section 68;

"recommended reliance limit" means the monetary amount recommended for reliance on a certificate under section 60;

"repository" means a system for storing and retrieving certificates and other information relevant to digital signatures;

"revoke a certificate" means to make a certificate ineffective permanently from a specified time forward;

"rightfully hold a private key" means to be able to utilise a private key—

- (a) which the holder or the holder's agents have not disclosed to any person in contravention of this Act; and
- (b) which the holder has not obtained through theft, deceit, eavesdropping or other unlawful means;

"subscriber" means a person who—

- (a) is the subject listed in a certificate;
- (b) accepts the certificate; and
- (c) holds a private key which corresponds to a public key listed in that certificate;

"suspend a certificate" means to make a certificate ineffective temporarily for a specified time forward;

"this Act" includes any regulations made under this Act;

"time-stamp" means—

- (a) to append or attach to a message, digital signature or certificate a digitally signed notation indicating at least the date, time and identity of the person appending or attaching the notation; or
- (b) the notation so appended or attached;

"transactional certificate" means a certificate, incorporating by reference one or more digital signatures, issued and valid for a specific transaction;

"trustworthy system" means computer hardware and software which—

- (a) are reasonably secure from intrusion and misuse;
- (b) provide a reasonable level of availability, reliability and correct operation; and
- (c) are reasonably suited to performing their intended functions;

"valid certificate" means a certificate which—

- (a) a licensed certification authority has issued;
- (b) has been accepted by the subscriber listed in it;
- (c) has not been revoked or suspended; and
- (d) has not expired:

Provided that a transactional certificate is a valid certificate only in relation to the digital signature incorporated in it by reference;

"verify a digital signature" means, in relation to a given digital signature, message and public key, to determine accurately that—

- (a) the digital signature was created by the private key corresponding to the public key; and
- (b) the message has not been altered since its digital signature was created;

"writing" or "written" includes any handwriting, typewriting, printing, electronic storage or transmission, or any other method of recording information or fixing information in a form capable of being preserved.

(2) For the purposes of this Act, a certificate shall be revoked by making a notation to that effect on the certificate or by including the certificate in a set of revoked certificates.

(3) The revocation of a certificate does not mean that it is destroyed or made illegible.

PART II

CONTROLLER OF CERTIFICATION AUTHORITIES AND THE LICENSING OF CERTIFICATION AUTHORITIES

3. (1) The Minister shall appoint a Controller of Certification Authorities for the purposes of this Act, in particular for the purpose of monitoring and overseeing the activities of certification authorities. Appointment of Controller

(2) The Controller shall exercise, discharge and perform the powers, duties and functions conferred on the Controller under this Act.

(3) The Controller may, after consultation with the Minister, appoint such number of officers and servants as the Controller considers necessary to exercise and perform all or any of the powers and duties of the Controller under this Act except the powers delegated to the Controller under subsection 4(4).

(4) The Controller and all officers and servants appointed by the Controller under subsection (3) shall exercise their powers under this Act subject to such directions as to general policy and orders as may be given or made by the Minister.

(5) The Controller shall maintain a publicly accessible data base containing a certification authority disclosure record for each licensed certification authority which shall contain all the particulars required under the regulations made under this Act.

(6) The Controller shall publish the contents of the data base in at least one recognised repository.

4. (1) No person shall carry on or operate, or hold himself out as carrying on or operating, as a certification authority unless that person holds a valid licence issued under this Act. Certification authorities to be licensed

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both, and in the case of a continuing offence shall in addition be liable to a daily fine not exceeding five thousand ringgit for each day the offence continues to be committed.

(3) The Minister may, on an application in writing being made in accordance with this Act, exempt—

- (a) a person operating as a certification authority within an organisation where certificates and key pairs are issued to members of the organisation for internal use only; and
- (b) such other person or class of persons as the Minister considers fit,

from the requirements of this section.

(4) The Minister may delegate his powers under subsection (3) to the Controller and such powers may be exercised by the Controller in the name and on behalf of the Minister.

(5) A delegation under subsection (4) shall not preclude the Minister himself from exercising at any time the powers so delegated.

(6) The liability limits specified in Chapter 8 of Part IV shall not apply to an exempted certification authority and Part V shall not apply in relation to a digital signature verified by a certificate issued by an exempted certification authority.

Qualifica-
tions of
certification
authorities.

5. (1) The Minister shall, by regulations made under this Act, prescribe the qualification requirements for certification authorities.

(2) The Minister may at any time vary or amend the qualification requirements prescribed under subsection (1) provided that any such variation or amendment shall not be applied to a certification authority holding a valid licence under this Act until the expiry of that licence.

6. (1) The function of a licensed certification authority shall be to issue a certificate to a subscriber upon application and upon satisfaction of the licensed certification authority's requirements as to the identity of the subscriber to be listed in the certificate and upon payment of the prescribed fees and charges.

Functions of licensed certification authorities.

(2) The licensed certification authority shall, before issuing any certificate under this Act, take all reasonable measures to check for proper identification of the subscriber to be listed in the certificate.

(3) The licensed certification authority shall, on the issuance of any certificate under this Act, cause the application for the certificate to be certified by a notary public duly appointed under the Notaries Public Act 1959.

Act 115.

7. (1) An application for the grant of a licence under this Act shall be made in writing to the Controller in such form as may be prescribed.

Application for licence.

(2) Every application under subsection (1) shall be accompanied by such documents or information as may be prescribed and the Controller may, orally or in writing at any time after receiving the application and before it is determined, require the applicant to provide such additional documents or information as may be considered necessary by the Controller for the purposes of determining the suitability of the applicant for the licence.

(3) Where any additional document or information required under subsection (2) is not provided by the applicant within the time specified in the requirement or any extension thereof granted by the Controller, the application shall be deemed to be withdrawn and shall not be further proceeded with, without prejudice to a fresh application being made by the applicant.

8. (1) The Controller shall, on an application having been duly made in accordance with section 7 and after being provided with all such documents and information as he may require, consider the application, and where he is satisfied that the applicant is a qualified certification

Grant or refusal of licence.

authority and a suitable licensee, and upon payment of the prescribed fee, grant the licence with or without conditions, or refuse to grant a licence.

(2) Every licence granted under subsection (1) shall set out the duration of the licence and the licence number.

(3) The terms and conditions imposed under the licence may at any time be varied or amended by the Controller provided that the licensee is given a reasonable opportunity of being heard.

(4) Where the Controller refuses to grant a licence, he shall immediately notify the applicant in writing of his refusal.

Revocation
of licence.

9. (1) The Controller may revoke a licence granted under section 8 if he is satisfied that—

- (a) the licensed certification authority has failed to comply with any obligation imposed upon it by or under this Act;
- (b) the licensed certification authority has contravened any condition imposed under the licence, any provision of this Act or any other written law, regardless that there has been no prosecution for an offence in respect of such contravention;
- (c) the licensed certification authority has, either in connection with the application for the licence or at any time after the grant of the licence, provided the Controller with false, misleading or inaccurate information or a document or declaration made by or on behalf of the licensed certification authority or by or on behalf of any person who is or is to be a director, controller or manager of the licensed certification authority which is false, misleading or inaccurate;
- (d) the licensed certification authority is carrying on its business in a manner which is prejudicial to the interest of the public or to the national economy;

- (e) the licensed certification authority has insufficient assets to meet its liabilities;
- (f) a winding up order has been made against the licensed certification authority or a resolution for its voluntary winding-up has been passed;
- (g) the licensed certification authority or any of its officers holding a managerial or an executive position has been convicted of any offence involving dishonesty, fraud or moral turpitude;
- (h) the licensed certification authority or its director, controller or manager has been convicted of any offence under this Act; or
- (i) the licensed certification authority has ceased to be a qualified certification authority.

(2) Before revoking a licence, the Controller shall give the licensed certification authority a notice in writing of his intention to do so and require the licensed certification authority to show cause within a period specified in the notice as to why the licence should not be revoked.

(3) Where the Controller decides to revoke the licence, he shall immediately inform the certification authority concerned of his decision by a notice in writing.

(4) The revocation of a licence shall take effect—

- (a) where there is no appeal against such revocation, on the expiration of fourteen days from the date on which the notice of revocation is served on the licensed certification authority; or
- (b) where there is an appeal against such revocation, when the revocation is confirmed by the Minister.

(5) Where an appeal has been made against the revocation of a licence, the certification authority whose licence has been so revoked shall not issue any certificates until the appeal has been disposed of and the revocation

has been set aside by the Minister but nothing in this subsection shall prevent the certification authority from fulfilling its other obligations to its subscribers during such period.

(6) A person who contravenes subsection (5) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both.

(7) Where the revocation of a licence has taken effect, the Controller shall, as soon as practicable, cause such revocation to be published in the certification authority disclosure record he maintains for the certification authority concerned and advertised in at least one national language and one English language national daily newspaper for at least three consecutive days.

(8) Any delay or failure in publishing or advertising such notice of revocation shall not in any manner affect the validity of the revocation.

Appeal,

10. (1) Any person who is aggrieved by—

- (a) the refusal of the Controller to license any certification authority under section 8 or to renew any such licence under section 17; or
- (b) the revocation of any licence under section 9,

may appeal in writing to the Minister within fourteen days from the date on which the notice of refusal or revocation is served on that person.

(2) The decision of the Minister under this section shall be final and conclusive.

Surrender
of licence.

11. (1) A licensed certification authority may surrender its licence by forwarding it to the Controller with a written notice of its surrender.

(2) The surrender shall take effect on the date the Controller receives the licence and the notice under subsection (1), or where a later date is specified in the notice, on that date.

(3) The licensed certification authority shall, not later than fourteen days after the date referred to in subsection (2), cause such surrender to be published in the certification authority disclosure record of the certification authority concerned and advertised in at least one national language and one English language national daily newspaper for at least three consecutive days.

12. (1) Where the revocation of a licence under section 9 or its surrender under section 11 has taken effect, or where the licence has expired, the licensed certification authority shall immediately cease to carry on or operate any business in respect of which the licence was granted.

effect of
revocation,
surrender or
expiry of
licence.

(2) Notwithstanding subsection (1), the Minister may, on the recommendation of the Controller, authorise the licensed certification authority in writing to carry on its business for such duration as the Minister may specify in the authorisation for the purpose of winding up its affairs.

(3) Notwithstanding subsection (1), a licensed certification authority whose licence has expired shall be entitled to carry on its business as if its licence had not expired upon proof being submitted to the Controller that the licensed certification authority has applied for a renewal of the licence and that such application is pending determination.

(4) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both, and in the case of a continuing offence shall in addition be liable to a daily fine not exceeding five thousand ringgit for each day the offence continues to be committed.

(5) Without prejudice to the Controller's powers under section 33, the revocation of a licence under section 9 or its surrender under section 11 or its expiry shall not affect the validity or effect of any certificate issued by the certification authority concerned before such revocation, surrender or expiry.

(6) For the purposes of subsection (5), the Controller shall appoint another licensed certification authority to take over the certificates issued by the certification authority whose licence has been revoked or surrendered or has expired and such certificates shall, to the extent that they comply with the requirements of the appointed licensed certification authority, be deemed to have been issued by that licensed certification authority.

(7) Nothing in subsection (6) shall preclude the appointed licensed certification authority from requiring the subscriber to comply with its requirements in relation to the issuance of certificates or from issuing a new certificate to the subscriber for the unexpired period of the original certificate provided that any additional fees or charges to be imposed shall only be imposed with the prior written approval of the Controller.

(8) Where the Controller has appointed a licensed certification authority to take over the certificates of a certification authority under subsection (6), the certification authority shall pay to the appointed licensed certification authority such part of the prescribed fee paid by the subscribers to it as the Controller may determine.

13. (1) The liability limits specified in Chapter 8 of Part IV shall not apply to unlicensed certification authorities.

(2) Part V shall not apply in relation to a digital signature which cannot be verified by a certificate issued by a licensed certification authority.

(3) In any other case, unless the parties expressly provide otherwise by contract between themselves, the licensing requirements under this Act shall not affect the effectiveness, enforceability or validity of any digital signature.

14. (1) Where the revocation of a licence under section 9 has taken effect, or where the licence has expired and no application for its renewal has been submitted within the period specified or where an application for renewal has been refused under section 17, the licensed certification authority shall within fourteen days return the licence to the Controller.

Return of
licence.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both, and in the case of a continuing offence shall in addition be liable to a daily fine not exceeding five thousand ringgit for each day the offence continues to be committed, and the court shall retain the licence and forward it to the Controller.

15. (1) The Controller may classify licences according to specified limitations including—

Restricted
licence.

- (a) maximum number of outstanding certificates;
- (b) cumulative maximum of recommended reliance limits in certificates issued by the licensed certification authority; and
- (c) issuance only within a single firm or organisation.

(2) The Controller may issue licences restricted according to the limits of each classification.

(3) A licensed certification authority that issues a certificate exceeding the restrictions of its licence commits an offence.

(4) Where a licensed certification authority issues a certificate exceeding the restrictions of its licence, the liability limits specified in Chapter 8 of Part IV shall not apply to the licensed certification authority in relation to that certificate.

(5) Nothing in subsection (3) or (4) shall affect the validity or effect of the issued certificate.

Restriction
on use of
expression
"certification
authority".

16. Except with the written consent of the Controller, no person, not being a licensed certification authority, shall assume or use the expressions "certification authority" or "licensed certification authority", as the case may be, or any derivative of these expressions in any language, or any other words in any language capable of being construed as indicating the carrying on or operation of such business, in relation to the business or any part of the business carried on by such person, or make any representation to such effect in any bill head, letter, paper, notice, advertisement or in any other manner.

Renewal of
licence.

17. (1) Every licensed certification authority shall submit an application to the Controller in such form as may be prescribed for the renewal of its licence at least thirty, but not more than sixty, days before the date of expiry of the licence and such application shall be accompanied by such documents and information as may be required by the Controller.

(2) The prescribed fee shall be payable upon approval of the application.

(3) If any licensed certification authority has no intention of renewing its licence, the licensed certification authority shall, at least thirty days before the expiry of the licence, publish such intention in the certification authority disclosure record of the certification authority concerned and advertise such intention in at least one national language and one English language national daily newspaper for at least three consecutive days.

(4) Without prejudice to any other grounds, the Controller may refuse to renew a licence where the requirements of subsection (1) have not been complied with.

18. (1) Where a licensed certification authority has lost its licence, it shall immediately notify the Controller in writing Of the loss. Lost licence.

(2) The licensed certification authority shall, as soon as practicable, submit an application for a replacement licence accompanied by all such information and documents as may be required by the Controller together with the prescribed fee.

19. (1) The Controller may recognise, by order published in the *Gazette*, certification authorities licensed or otherwise authorised by governmental entities outside Malaysia that satisfy the prescribed requirements. Recognition of other licences.

(2) Where a licence or other authorisation of a governmentai entity is recognised under subsection (1),—

(a) the recommended reliance limit, if any, specified in a certificate issued by the certification authority licensed or otherwise authorised by the governmental entity shall have effect in the same manner as a recommended reliance limit specified in a certificate issued by a licensed certification authority of Malaysia; and

(b) Part V shall apply to the certificates issued by the certification authority licensed or otherwise authorised by the governmental entity in the same manner as it applies to a certificate issued by a licensed certification authority of Malaysia.

20. (1) The operations of a licensed certification authority shall be audited a least once a year to evaluate its compliance with this Act. Performance audit.

(2) The audit shall be carried out by a certified public accountant having expertise in computer security or by an accredited computer security professional.

(3) The qualifications of the auditors and the procedure for an audit shall be as may be prescribed by regulations made under this Act.

(4) The Controller shall publish in the certification authority disclosure record he maintains for the licensed certification authority concerned the date and result of the audit.

Exemption
from
performance
audit.

21. (1) The Controller may exempt a licensed certification authority from the requirements of section 20 if—

- (a) the licensed certification authority requests in writing for exemption;
- (b) the most recent performance audit, if any, of the licensed certification authority resulted in a finding of full or substantial compliance with this Act; and
- (c) the licensed certification authority declares under oath or affirmation that one or more of the following is true with respect to the licensed certification authority:
 - (i) the licensed certification authority has issued fewer than six certificates during the past year and the total of the recommended reliance limits of all such certificates does not exceed twenty-five thousand ringgit;
 - (ii) the aggregate lifetime of all certificates issued by the licensed certification authority during the past year is less than thirty days and the total of the recommended reliance limits of all such certificates does not exceed twenty-five thousand ringgit;
 - (iii) the recommended reliance limits of all certificates outstanding and issued by the licensed certification authority total less than two thousand five hundred ringgit.

(2) Where the licensed certification authority's declaration under paragraph (1)(c) falsely states a material fact, the licensed certification authority shall be deemed to have failed to comply with the performance audit requirement under section 20.

(3) Where a licensed certification authority is exempted under subsection (1), the Controller shall publish in the certification authority disclosure record he maintains for the licensed certification authority concerned a statement that the licensed certification authority is exempted from the performance audit requirement under section 20.

PART III

REQUIREMENTS OF LICENSED CERTIFICATION AUTHORITIES

22. (1) A licensed certification authority shall only carry on such activities as may be specified in its licence.

Activities of licensed certification authorities.

(2) A licensed certification authority shall carry on its activities in accordance with this Act and any regulations made under this Act.

23. A licensed certification authority shall at all times display its licence in a conspicuous place at its place of business.

Requirement to display licence.

24. (1) A licensed certification authority shall submit to the Controller such information and particulars including financial statements, audited balance sheets and profit and loss accounts relating to its entire business operations as may be required by the Controller within such time as he may determine.

Requirement to submit information and particulars relating to business operations.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both, and in the case of a continuing offence shall in addition be liable to a daily fine not exceeding two thousand ringgit for each day the offence continues to be committed.

Notification
of change of
information.

25. (1) Every licensed certification authority shall, before making any amendment or alteration to any of its constituent documents, or before any change in its director or chief executive officer, furnish the Controller particulars in writing of any such proposed amendment, alteration or change.

(2) Every licensed certification authority shall immediately notify the Controller of any amendment or alteration to any information or document which has been furnished to the Controller in connection with the licence.

Requirements
as to advertisement.

26. A licensed certification authority shall not publish, whether in a newspaper, brochure or otherwise, any advertisement or information relating to or in connection with the business of a certification authority without including—

- (a) the licence number;
- (b) the business name under which it carries on business and the address at which such business is carried on; and
- (c) any other particulars relating to any services offered as the Controller considers necessary.

PART IV

DUTIES OF LICENSED CERTIFICATION AUTHORITIES AND SUBSCRIBERS

CHAPTER 1

General requirements for licensed certification authorities

Use of
trustworthy
systems.

27. (1) A licensed certification authority shall only use a trustworthy system —

- (a) to issue, suspend or revoke a certificate;
- (b) to publish or give notice of the issuance, suspension or revocation of a certificate; and

- (c) to create a private key, whether for itself or for a subscriber.

(2) A subscriber shall only use a trustworthy system to create a private key.

28. (1) A licensed certification authority shall, on an inquiry being made to it under this Act, disclose any material certification practice statement and any fact material to either the reliability of a certificate which it has issued or its ability to perform its Services. Disclosures on inquiry.

(2) A licensed certification authority may require a signed, written and reasonably specific inquiry from an identified person, and payment of the prescribed fee, as conditions precedent to effecting a disclosure required under subsection (1).

29. (1) A licensed certification authority may issue a certificate to a subscriber only after all of the following conditions are satisfied: Prerequisites to issuance of certificate to subscriber.

- (a) the licensed certification authority has received a request for issuance signed by the prospective subscriber; and
- (h) the licensed certification authority has confirmed that—
 - (i) the prospective subscriber is the person to be listed in the certificate to be issued;
 - (ii) if the prospective subscriber is acting through one or more agents, the subscriber duly authorised the agent or agents to have custody of the subscriber's private key and to request issuance of a certificate listing the corresponding public key;
 - (iii) the information in the certificate to be issued is accurate;
 - (iv) the prospective subscriber rightfully holds the private key corresponding to the public key to be listed in the certificate;

- (v) the prospective subscriber holds a private key capable of creating a digital signature; and
- (vi) the public key to be listed in the certificate can be used to verify a digital signature affixed by the private key held by the prospective subscriber.

(2) The requirements of subsection (1) shall not be waived or disclaimed by the licensed certification authority, the subscriber, or both.

Publication of issued and accepted certificate.

30. (1) Where the subscriber accepts the issued certificate, the licensed certification authority shall publish a signed copy of the certificate in a recognised repository, as the licensed certification authority and the subscriber named in the certificate may agree, unless a contract between the licensed certification authority and the subscriber provides otherwise.

(2) Where the subscriber does not accept the certificate, a licensed certification authority shall not publish it, or shall cancel its publication if the certificate has already been published.

Adoption of more rigorous requirements permitted.

31. Nothing in sections 29 and 30 shall preclude a licensed certification authority from conforming to standards, certification practice statements, security plans or contractual requirements more rigorous than, but nevertheless consistent with, this Act.

Suspension or revocation of certificate for faulty issuance.

32. (1) Where after issuing a certificate a licensed certification authority confirms that it was not issued in accordance with sections 29 and 30, the licensed certification authority shall immediately revoke it.

(2) A licensed certification authority may suspend a certificate which it has issued for a reasonable period not exceeding forty-eight hours as may be necessary for an investigation to be carried out to confirm the grounds for a revocation under subsection (1).

(3) The licensed certification authority shall immediately notify the subscriber of a revocation or suspension under this section.

33. (1) The Controller may order the licensed certification authority to suspend or revoke a certificate issued by it where the Controller determines that— Suspension or revocation of certificate by order.

- (a) the certificate was issued without compliance with sections 29 and 30; and
- (b) the non-compliance poses a significant risk to persons reasonably relying on the certificate.

(2) Before making a determination under subsection (1), the Controller shall give the licensed certification authority and the subscriber a reasonable opportunity of being heard.

(3) Notwithstanding subsections (1) and (2), where in the opinion of the Controller there exists an emergency that requires an immediate remedy, the Controller may, after consultation with the Minister, suspend a certificate for a period not exceeding forty-eight hours.

CHAPTER 2

Warranties and obligations of licensed certification authorities

34. (I) By issuing a certificate, a licensed certification authority warrants to the subscriber named in the certificate that— Warranties to subscriber.

- (a) the certificate contains no information known to the licensed certification authority to be false;
- (b) the certificate satisfies all the requirements of this Act; and
- (c) the licensed certification authority has not exceeded any limits of its licence in issuing the certificate.

(2) A licensed certification authority shall not disclaim or limit the warranties under subsection (1).

Obligations to
consent to
subscriber.

35. Unless the subscriber and licensed certification authority otherwise agree, a licensed certification authority, by issuing a certificate, promises to the subscriber —

- (a) to act promptly to suspend or revoke a certificate in accordance with Chapter 5 or 6; and
- (b) to notify the subscriber within a reasonable time of any facts known to the licensed certification authority which significantly affect the validity or reliability of the certificate once it is issued.

Representations upon
issuance.

36. By issuing a certificate, a licensed certification authority certifies to all who reasonably rely on the information contained in the certificate that—

- (a) the information in the certificate and Hsted as confirmed by the licensed certification authority is accurate;
- (b) all information foreseeably material to the reliability of the certificate is stated or incorporated by reference within the certificate;
- (c) the subscriber has accepted the certificate; and
- (d) the licensed certification authority has complied with all applicable laws governing the issuance of the certificate.

Representations upon
publication.

37. By publishing a certificate, a licensed certification authority certifies to the repository in which the certificate is published and to all who reasonably rely on the information contained in the certificate that the licensed certification authority has issued the certificate to the subscriber.

CHAPTER 3

*Representations and duties upon acceptance
of certificate*

38. By accepting a certificate issued by a licensed certification authority, the subscriber listed in the certificate certifies to all who reasonably rely on the information contained in the certificate that—

Implied
representa-
tions by
subscriber.

- (a) the subscriber rightfully holds the private key corresponding to the public key listed in the certificate;
- (b) all representations made by the subscriber to the licensed certification authority and material to information listed in the certificate are true; and
- (c) all material representations made by the subscriber to a licensed certification authority or made in the certificate and not confirmed by the licensed certification authority in issuing the certificate are true.

39. By requesting on behalf of a principal the issuance of a certificate naming the principal as subscriber, the requesting person certifies in that person's own right to all who reasonably rely on the information contained in the certificate that the requesting person—

Represen-
tations by
agent of
subscriber.

- (a) holds all authority legally required to apply for issuance of a certificate naming the principal as subscriber; and
- (b) has authority to sign digitally on behalf of the principal, and, if that authority is limited in any way, adequate safeguards exist to prevent a digital signature exceeding the bounds of the person's authority.

40. No person may disclaim or contractually limit the application of this Chapter, nor obtain indemnity for its effects, if the disclaimer, limitation or indemnity restricts liability for misrepresentation as against persons reasonably relying on the certificate.

Disclaimer
or indemnity
limited.

Indemnification of licensed certification authority by subscriber.

41. (1) By accepting a certificate, a subscriber undertakes to indemnify the issuing licensed certification authority for any loss or damage caused by issuance or publication of the certificate in reliance on—

- (a) a false and material representation of fact by the subscriber; or
- (b) the failure by the subscriber to disclose a material fact,

if the representation or failure to disclose was made either with intent to deceive the licensed certification authority or a person relying on the certificate, or with negligence.

(2) Where the licensed certification authority issued the certificate at the request of one or more agents of the subscriber, the agent or agents personally undertake to indemnify the licensed certification authority under this section, as if they were accepting subscribers in their own right.

(3) The indemnity provided in this section shall not be disclaimed or contractually limited in scope.

Certification of accuracy of information given.

42. In obtaining information of the subscriber material to the issuance of a certificate, the licensed certification authority may require the subscriber to certify the accuracy of relevant information under oath or affirmation.

CHAPTER 4

Control of private key

Duty of subscriber to keep private key secure.

43. By accepting a certificate issued by a licensed certification authority, the subscriber named in the certificate assumes a duty to exercise reasonable care to retain control of the private key and prevent its disclosure to any person not authorised to create the subscriber's digital signature.

Property in private key.

44. A private key is the personal property of the subscriber who rightfully holds it.

45. Where a licensed certification authority holds the private key corresponding to a public key listed in a certificate which it has issued, the licensed certification authority shall hold the private key as a fiduciary of the subscriber named in the certificate, and may use that private key only with the subscriber's prior written approval, unless the subscriber expressly and in writing grants the private key to the licensed certification authority and expressly and in writing permits the licensed certification authority to hold the private key according to other terms.

Licensed certification authority to be fiduciary if holding subscriber's private key.

CHAPTER 5

Suspension of certificate

46. (1) Unless the licensed certification authority and the subscriber agree otherwise, the licensed certification authority which issued a certificate, which is not a transactional certificate, shall suspend the certificate for a period not exceeding forty-eight hours—

Suspension of certificate by issuing licensed certification authority.

(a) upon request by a person identifying himself as the subscriber named in the certificate, or as a person in a position likely to know of a compromise of the security of a subscriber's private key, such as an agent, business associate, employee or member of the immediate family of the subscriber; or

(b) by order of the Controller under section 33.

(2) The licensed certification authority shall take reasonable measures to check the identity or agency of the person requesting suspension.

47. (1) Unless the certificate provides otherwise or the certificate is a transactional certificate, the Controller or a court may suspend a certificate issued by a licensed certification authority for a period of forty-eight hours, if—

Suspension of certificate by Controller or court.

(a) a person identifying himself as the subscriber named in the certificate or as an agent, business associate, employee or member of the immediate family of the subscriber requests suspension; and

- (b) the requester represents that the licensed certification authority which issued the certificate is unavailable.

(2) The Controller or court may require the person requesting suspension to provide evidence, including a statement under oath or affirmation regarding his identity and authorisation, and the unavailability of the issuing licensed certification authority, and may decline to suspend the certificate in his or its discretion.

(3) The Controller or other law enforcement agency may investigate suspensions by the Controller or court for possible wrongdoing by persons requesting suspension.

Notice of
suspension.

48. (1) Immediately upon suspension of a certificate by a licensed certification authority, the licensed certification authority shall publish a signed notice of the suspension in the repository specified in the certificate for publication of notice of suspension.

(2) Where one or more repositories are specified, the licensed certification authority shall publish signed notices of the suspension in all such repositories.

(3) Where any repository specified no longer exists or refuses to accept publication, or if no such repository is recognised under section 68, the licensed certification authority shall also publish the notice in a recognised repository.

(4) Where a certificate is suspended by the Controller or a court, the Controller or court shall give notice as required in this section for a licensed certification authority provided that the person requesting suspension pays in advance any prescribed fee required by a repository for publication of the notice of suspension.

Termination
of suspension
initiated by
request.

49. A licensed certification authority shall terminate a suspension initiated by request—

- (a) where the subscriber named in the suspended certificate requests termination of the suspension.

only if the licensed certification authority has confirmed that the person requesting suspension is the subscriber or an agent of the subscriber authorised to terminate the suspension; or

- (b) where the licensed certification authority discovers and confirms that the request for the suspension was made without authorisation by the subscriber.

50. (1) The contract between a subscriber and a licensed certification authority may limit or preclude requested suspension by the licensed certification authority or may provide otherwise for termination of a requested suspension.

Alternate contractual procedures.

(2) Where the contract limits or precludes suspension by the Controller or a court when the issuing licensed certification authority is unavailable, the limitation or preclusion shall be effective only if notice of it is published in the certificate.

51. No person shall knowingly or intentionally misrepresent to a licensed certification authority his identity or authorisation in requesting suspension of a certificate.

Prohibition against false or unauthorised request for suspension of certificate.

52. Nothing in this Chapter shall release the subscriber from the duty under section 43 to keep the private key secure while a certificate is suspended.

Effect of suspension of certificate.

CHAPTER 6

Revocation of certificate

53. (1) A licensed certification authority shall revoke a certificate which it issued but which is not a transactional certificate,—

Revocation on request.

- (a) upon receiving a request for revocation by the subscriber named in the certificate; and

- (b) upon confirming that the person requesting revocation is that subscriber or is an agent of that subscriber with authority to request the revocation.

(2) A licensed certification authority shall confirm a request for revocation and revoke a certificate within one business day after receiving both a subscriber's written request and evidence reasonably sufficient to confirm the identity of the person requesting the revocation or of the agent.

Revocation
on sub-
scriber's
death or
dissolution.

54. A licensed certification authority shall revoke a certificate which it issued—

- (a) upon receiving a certified copy of the subscriber's death certificate or upon confirming by other evidence that the subscriber is dead; or
- (b) upon presentation of documents effecting a dissolution of the subscriber or upon confirming by other evidence that the subscriber has been dissolved or has ceased to exist.

Revocation
of unreliable
certificates.

55. (1) A licensed certification authority may revoke one or more certificates which it issued if the certificates are or become unreliable regardless of whether the subscriber consents to the revocation and notwithstanding any provision to the contrary in a contract between the subscriber and the licensed certification authority.

(2) Nothing in subsection (1) shall prevent the subscriber from seeking damages or other relief against the licensed certification authority in the event of wrongful revocation.

Notice of
revocation.

56. (1) Immediately upon revocation of a certificate by a licensed certification authority, the licensed certification authority shall publish a signed notice of the revocation in the repository specified in the certificate for publication of notice of revocation.

(2) Where one or more repositories are specified, the licensed certification authority shall publish signed notices of the revocation in all such repositories.

(3) Where any repository specified no longer exists or refuses to accept publication, or if no such repository is recognised under section 68, the licensed certification authority shall also publish the notice in a recognised repository.

57. Where a subscriber has requested for the revocation of a certificate, the subscriber ceases to certify as provided in Chapter 3 and has no further duty to keep the private key secure as required under section 43 —

Effect of
revocation
request on
subscriber.

- (a) when notice of the revocation is published as required under section 56; or
- (b) when two business days have lapsed after the subscriber requests for the revocation in writing, supplies to the issuing licensed certification authority information reasonably sufficient to confirm the request, and pays any prescribed fee,

whichever occurs first.

58. Upon notification as required under section 56, a licensed certification authority shall be discharged of its warranties based on issuance of the revoked certificate and ceases to certify as provided in sections 35 and 36 in relation to the revoked certificate.

Effect of
notification
on licensed
certification
authority.

(3) When a certificate expires, the subscriber and licensed certification authority shall cease to certify as provided under this Act and the licensed certification authority shall be discharged of its duties based on issuance in relation to the expired certificate.

(4) The expiry of a certificate shall not affect the duties and obligations of the subscriber and licensed certification authority incurred under and in relation to the expired certificate.

CHAPTER 8

Recommended reliance limits and liability

Recom-
mended
reliance
limit.

60. (1) A licensed certification authority shall, in issuing a certificate to a subscriber, specify a recommended reliance limit in the certificate.

(2) The licensed certification authority may specify different limits in different certificates as it considers fit.

Liability
limits for
licensed
certification
authorities.

61. Unless a licensed certification authority waives the application of this section, a licensed certification authority—

(a) shall not be liable for any loss caused by reliance on a false or forged digital signature of a subscriber, if, with respect to the false or forged digital signature, the licensed certification authority complied with the requirements of this Act;

(b) shall not be liable in excess of the amount specified in the certificate as its recommended reliance limit for either—

(i) a loss caused by reliance on a misrepresentation in the certificate of any fact that the licensed certification authority is required to confirm; or

- (ii) failure to comply with sections 29 and 30 in issuing the certificate; and
- (c) shall not be liable for—
 - (i) punitive or exemplary damages; or
 - (ii) damages for pain or suffering.

PART V

EFFECT OF DIGITAL SIGNATURE

62. (1) Where a rule of law requires a signature or provides for certain consequences in the absence of a signature, that rule shall be satisfied by a digital signature where—

Satisfaction of signature requirements.

- (a) that digital signature is verified by reference to the public key listed in a valid certificate issued by a licensed certification authority;
 - (b) that digital signature was affixed by the signer with the intention of signing the message; and
 - (c) the recipient has no knowledge or notice that the signer—
 - (i) has breached a duty as a subscriber; or
 - (ii) does not rightfully hold the private key used to affix the digital signature.
- (2) Notwithstanding any written law to the contrary—
- (a) a document signed with a digital signature in accordance with this Act shall be as legally binding as a document signed with a handwritten signature, an affixed thumb-print or any other mark; and
 - (b) a digital signature created in accordance with this Act shall be deemed to be a legally binding signature.

(3) Nothing in this Act shall preclude any symbol from being valid as a signature under any other applicable law.

Unreliable
digital
signatures.

63. (1) Unless otherwise provided by law or contract, the recipient of a digital signature assumes the risk that a digital signature is forged, if reliance on the digital signature is not reasonable under the circumstances.

(2) Where the recipient determines not to rely on a digital signature under this section, the recipient shall promptly notify the signer of its determination not to rely on a digital signature and the grounds for that determination.

Digitally
signed
message
deemed to
be written
document.

64. (1) A message shall be as valid, enforceable and effective as if it had been written on paper if—

- (a) it bears in its entirety a digital signature; and
- (b) that digital signature is verified by the public key listed in a certificate which—
 - (i) was issued by a licensed certification authority; and
 - (ii) was valid at the time the digital signature was created.

(2) Nothing in this Act shall preclude any message, document or record from being considered written or in writing under any other applicable law.

Digitally
signed
message
deemed to
be original
document.

65. A copy of a digitally signed message shall be as valid, enforceable and effective as the original of the message unless it is evident that the signer designated an instance of the digitally signed message to be a unique original, in which case only that instance constitutes the valid, enforceable and effective message.

Authen-
tication of
digital
signatures.

66. A certificate issued by a licensed certification authority shall be an acknowledgement of a digital signature verified by reference to the public key listed

Digital Signature

in the certificate, regardless of whether words of an express acknowledgement appear with the digital signature and regardless of whether the signer physically appeared before the licensed certification authority when the digital signature was created, if that digital signature is—

- (a) verifiable by that certificate; and
- (b) affixed when that certificate was valid.

67. In adjudicating a dispute involving a digital signature, a court shall presume—

Presumption
in adjudicating
disputes.

- (a) that a certificate digitally signed by a licensed certification authority and—
 - (i) published in a recognised repository; or
 - (ii) made available by the issuing licensed certification authority or by the subscriber listed in the certificate,

is issued by the licensed certification authority which digitally signed it and is accepted by the subscriber listed in it;

- (b) that the information listed in a valid certificate and confirmed by a licensed certification authority issuing the certificate is accurate;
- (c) that where a digital signature is verified by the public key listed in a valid certificate issued by a licensed certification authority—
 - (i) that digital signature is the digital signature of the subscriber listed in that certificate;
 - (ii) that digital signature was affixed by that subscriber with the intention of signing the message; and
 - (iii) the recipient of that digital signature has no knowledge or notice that the signer—
 - (A) has breached a duty as a subscriber;
 - or

(B) does not rightfully hold the private key used to affix the digital signature; and

(d) that a digital signature was created before it was time-stamped by a recognised date/time stamp service utilising a trustworthy system.

PART VI

REPOSITORIES AND DATE/TIME STAMP SERVICES

Recognition of repositories.

68. (1) The Controller may recognise one or more repositories, after determining that a repository to be recognised satisfies the requirements prescribed in the regulations made under this Act.

(2) The procedure for recognition of repositories shall be as may be prescribed by regulations made under this Act.

(3) The Controller shall publish a list of recognised repositories in such form and manner as he may determine.

Liability of repositories.

69. (1) Notwithstanding any disclaimer by the repository or any contract to the contrary between the repository and a licensed certification authority or a subscriber, a repository shall be liable for a loss incurred by a person reasonably relying on a digital signature verified by the public key listed in a suspended or revoked certificate, if loss was incurred more than one business day after receipt by the repository of a request to publish notice of the suspension or revocation, and the repository had failed to publish the notice when the person relied on the digital signature.

(2) Unless waived, a recognised repository or the owner or operator of a recognised repository—

(a) shall not be liable for failure to record publication of a suspension or revocation, unless the repository has received notice of publication and one business day has elapsed since the notice was received;

- (b) shall not be liable under subsection (1) in excess of the amount specified in the certificate as the recommended reliance limit;
- (c) shall not be liable under subsection (1) for—
 - (i) punitive or exemplary damages; or
 - (ii) damages for pain or suffering;
- (d) shall not be liable for misrepresentation in a certificate published by a certification authority;
- (e) shall not be liable for accurately recording or reporting information which a licensed certification authority, a court or the Controller has published as required or permitted under this Act, including information about the suspension or revocation of a certificate; and
- (f) shall not be liable for reporting information about a certification authority, a certificate or a subscriber, if such information is published as required or permitted under this Act or is published by order of the Controller in the performance of his licensing and regulatory duties under this Act.

70. (1) The Controller may recognise one or more date/time stamp services, after determining that a service to be recognised satisfies the requirements prescribed in the regulations made under this Act.

Recognition of date/time stamp services.

(2) The procedure for recognition of date/time stamp services shall be as may be prescribed by regulations made under this Act.

(3) The Controller shall publish a list of recognised date/time stamp services in such form and manner as he may determine.

PART VII

GENERAL

Prohibition
against
dangerous
activities.

71. (1) No certification authority, whether licensed or not, shall conduct its business in a manner that creates an unreasonable risk of loss to the subscribers of the certification authority, to persons relying on certificates issued by the certification authority or to a repository.

(2) The Controller may publish in one or more recognised repositories brief statements advising subscribers, persons relying on digital signatures and repositories about any activities of a certification authority, whether licensed or not, which create a risk prohibited under subsection (1).

(3) The certification authority named in a statement as creating or causing a risk may protest the publication of the statement by filing a brief written defence.

(4) On receipt of a protest made under subsection (3), the Controller shall publish the written defence together with the Controller's statement, and shall immediately give the protesting certification authority notice and a reasonable opportunity of being heard.

(5) Where, after a hearing, the Controller determines that the publication of the advisory statement was unwarranted, the Controller shall revoke the advisory statement.

(6) Where, after a hearing, the Controller determines that the advisory statement is no longer warranted, the Controller shall revoke the advisory statement.

(7) Where, after a hearing, the Controller determines that the advisory statement remains warranted, the Controller may continue or amend the advisory statement

and may take further legal action to eliminate or reduce the risk prohibited under subsection (1).

(8) The Controller shall publish his decision under subsection (5), (6) or (7), as the case may be, in one or more recognised repositories.

72. (1) Except for the purposes of this Act, no person who has access to any record, book, register, correspondence, information, document or other material obtained under this Act shall disclose such record, book, register, correspondence, information, document or other material to any other person. Obligation of secrecy.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.

73. A person who makes, orally or in writing, signs or furnishes any declaration, return, certificate or other document or information required under this Act which is untrue, inaccurate or misleading in any particular commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding ten years or to both. False information.

74. (1) Where a body corporate commits an offence under this Act, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate or was purporting to act in any such capacity or was in any manner or to any extent responsible for the management of any of the affairs of the body corporate or was assisting in such management— Offences by body corporate

(a) may be charged severally or jointly in the same proceedings with the body corporate; and

(b) where the body corporate is found guilty of the offence, shall be deemed to be guilty of that offence unless, having regard to the nature of his functions in that capacity and to all circumstances, he proves—

- (i) that the offence was committed without his knowledge, consent or connivance; and
- (ii) that he took all reasonable precautions and had exercised due diligence to prevent the commission of the offence.

(2) Where any person would be liable under this Act to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any employee or agent of his, or of the employee of such agent, if such act, omission, neglect or default was committed—

- (a) by his employee in the course of his employment;
- (b) by the agent when acting on his behalf; or
- (c) by the employee of such agent in the course of his employment by such agent or otherwise on behalf of the agent.

Authorised
officer.

75. (1) The Minister may in writing authorise any public officer or officer of the Controller to exercise the powers of enforcement under this Act.

(2) Any such officer shall be deemed to be a public servant within the meaning of the Penal Code.

F.M.S.
Cap 45.

(3) In exercising any of the powers of enforcement under this Act, an authorised officer shall on demand produce to the person against whom he is acting the authority issued to him by the Minister.

Power to
investigate.

76. (1) The Controller may investigate the activities of a certification authority material to its compliance with this Act.

(2) For the purposes of subsection (1), the Controller may issue orders to a certification authority to further its investigation and secure compliance with this Act.

(3) Further, in any case relating to the commission of an offence under this Act, any authorised officer carrying on an investigation may exercise all or any of the special powers in relation to police investigation in seizable cases given by the Criminal Procedure Code.

*F.M.S.
Cap. 6.*

77. (1) If it appears to a Magistrate, upon written information on oath and after such inquiry as he considers necessary, that there is reasonable cause to believe that an offence under this Act is being or has been committed on any premises, the Magistrate may issue a warrant authorising any police officer not below the rank of Inspector, or any authorised officer named therein, to enter the premises at any reasonable time by day or by night, with or without assistance and if need be by force, and there to search for and seize—

Search by
warrant.

- (a) copies of any books, accounts or other documents, including computerised data, which contain or are reasonably suspected to contain information as to any offence so suspected to have been committed;
- (b) any signboard, card, letter, pamphlet, leaflet, notice or other device representing or implying that the person is a licensed certification authority; and
- (c) any other document, article or item that is reasonably believed to furnish evidence of the commission of such offence.

(2) A police officer or an authorised officer conducting a search under subsection (1) may, if in his opinion it is reasonably necessary to do so for the purpose of investigating into the offence, search any person who is in or on such premises.

(3) A police officer or an authorised officer making a search of a person under subsection (2) may seize, detain or take possession of any book, accounts, document, computerised data, card, letter, pamphlet, leaflet, notice, device, article or item found on such person for the purpose of the investigation being carried out by such officer.

(4) No female person shall be searched under this section except by another female person.

(5) Where, by reason of its nature, size or amount, it is not practicable to remove any book, accounts, document, computerised data, signboard, card, letter, pamphlet, leaflet, notice, device, article or item seized under this section, the seizing officer shall, by any means, seal such book, accounts, document, computerised data, signboard, card, letter, pamphlet, leaflet, notice, device, article or item in the premises or container in which it is found.

(6) A person who, without lawful authority, breaks, tampers with or damages the seal referred to in subsection (5) or removes any book, accounts, document, computerised data, signboard, card, letter, pamphlet, leaflet, notice, device, article or item under seal or attempts to do so commits an offence.

Search and seizure without warrant.

78. If a police officer not below the rank of Inspector in any of the circumstances referred to in section 77 has reasonable cause to believe that by reason of delay in obtaining a search warrant under that section the investigation would be adversely affected or evidence of the commission of an offence is likely to be tampered with, removed, damaged or destroyed, such officer may enter such premises and exercise in, upon and in respect of the premises all the powers referred to in section 77 in as full and ample a manner as if he were authorised to do so by a warrant issued under that section.

Access to computerised data.

79. (1) A police officer conducting a search under section 77 or 78 or an authorised officer conducting a search under section 77 shall be given access to computerised data whether stored in a computer or otherwise.

(2) For the purposes of this section, "access" includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of computerised data.

80. (1) Except as provided in subsection (2), where any book, accounts, document, computerised data, signboard, card, letter, pamphlet, leaflet, notice, device, article or item is seized under section 77 or 78, the seizing officer shall prepare a list of the things seized and immediately deliver a copy of the list signed by him to the occupier of the premises which have been searched, or to his agent or servant, at those premises. List of things seized.

(2) Where the premises are unoccupied, the seizing officer shall whenever possible post a list of the things seized conspicuously on the premises.

81. Any person who obstructs, impedes, assaults or interferes with any authorised officer in the performance of his functions under this Act commits an offence. Obstruction of authorised officer.

82. An authorised officer shall, for the purposes of the execution of this Act, have power to do all or any of the following: Additional powers.

- (a) to require the production of records, accounts, computerised data and documents kept by a licensed certification authority and to inspect, examine and copy any of them;
- (h) to require the production of any identification document from any person in relation to any case or offence under this Act;
- (c) to make such inquiry as may be necessary to ascertain whether the provisions of this Act have been complied with.

83. (1) A person who commits an offence under this Act for which no penalty is expressly provided shall, on conviction, be liable to a fine not exceeding two hundred thousand ringgit or to imprisonment for a term not General penalty.

exceeding four years or to both, and in the case of a continuing offence shall in addition be liable to a daily fine not exceeding two thousand ringgit for each day the offence continues to be committed.

(2) For the purposes of this section, "this Act" does not include the regulations made under this Act.

Recovery of
procedural
costs.

84. Where the Controller finds that a certification authority has contravened this Act, the Controller may order the certification authority to pay the costs incurred by the Controller in prosecution and adjudication proceedings in relation to the order and in enforcing it.

No costs or
damages
arising from
seizure to be
recoverable.

85. No person shall, in any proceedings before any court in respect of the seizure of any book, accounts, document, computerised data, signboard, card, letter, pamphlet, leaflet, notice, device, article or item seized in the exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief unless such seizure was made without reasonable cause.

Institution
and conduct
of
prosecution.

86. (1) No prosecution for or in relation to any offence under this Act shall be instituted without the written consent of the Public Prosecutor.

(2) Any officer of the Controller duly authorised in writing by the Public Prosecutor may conduct the prosecution for any offence under this Act.

Jurisdiction
to try
offences.

87. Notwithstanding any written law to the contrary, a Court of a Magistrate of the First Class shall have jurisdiction to try any offence under this Act and to impose the full punishment for any such offence.

Protection
of officers.

88. No action or prosecution shall be brought, instituted or maintained in any court against —

- (a) the Controller or any officer duly authorised under this Act for or on account of or in respect of any act ordered or done for the purpose of carrying into effect this Act; and

- (b) any other person for or on account of or in respect of any act done or purported to be done by him under the order, direction or instruction of the Controller or any officer duly authorised under this Act if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served thereby.

89. (1) The Minister may, by order published in the *Gazette*, exempt any person or class of persons from all or any of the provisions of this Act, except section 4. Power to exempt.

(2) The Minister may impose any terms and conditions as he thinks fit on any exemption under subsection (1).

90. Unless it is expressly provided for under this Act, no person may disclaim or contractually limit the application of this Act. Limitation on disclaiming or limiting application of Act.

91. (1) The Minister may make regulations for all or any of the following purposes: Regulations.

- (a) prescribing the qualification requirements for certification authorities;
- (b) prescribing the manner of applying for licences and certificates under this Act, the particulars to be supplied by an applicant, the manner of licensing and certification, the fees payable therefor, the conditions or restrictions to be imposed and the form of licences and certificates;
- (c) regulating the operations of licensed certification authorities;
- (d) prescribing the requirements for the content, form and sources of information in certification authority disclosure records, the updating and timeliness of such information and other practices and policies relating to certification authority disclosure records;
- (e) prescribing the form of certification practice statements;

- (f) prescribing the qualification requirements for auditors and the procedure for audits;
- (g) prescribing the requirements for repositories and the procedure for recognition of repositories;
- (h) prescribing the requirements for date/time stamp services and the procedure for recognition of date/time stamp services;
- (i) prescribing the procedure for the review of software for use in creating digital signatures and of the applicable standards in relation to digital signatures and certification practice and for the publication of reports on such software and standards;
- (j) prescribing the forms for the purposes of this Act;
- (k) prescribing the fees and charges payable under this Act and the manner for collecting and disbursing such fees and charges;
- (l) providing for such other matters as are contemplated by, or necessary for giving full effect to, the provisions of this Act and for their due administration.

(2) Regulations made under subsection (1) may prescribe any act in contravention of the regulations to be an offence and may prescribe penalties of a fine not exceeding one hundred thousand ringgit or imprisonment for a term not exceeding two years or both.

Savings and
transitional.

92. (1) A certification authority that has been carrying on or operating as a certification authority before the commencement of this Act shall, not later than three months from such commencement, obtain a licence under this Act.

(2) Where a certification authority referred to in subsection (1) fails to obtain a licence after the period prescribed in subsection (1), it shall be deemed to be an unlicensed certification authority and the provisions of this Act shall apply to it and the certificates issued by it accordingly.

(3) Where a certification authority referred to in subsection (1) has obtained a licence in accordance with this Act within the period prescribed in subsection (1), all certificates issued by such certification authority before the commencement of this Act, to the extent that they are not inconsistent with this Act, shall be deemed to have been issued under this Act and shall have effect accordingly.