



BILL NO. 12

Government Bill

*2nd Session, 60th General Assembly
Nova Scotia
56 Elizabeth II, 2007*

An Act to Amend Chapter 154 of the Revised Statutes, 1989, the Evidence Act

CHAPTER 38
ACTS OF 2007

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 13, 2007**

The Honourable Cecil P. Clarke
Minister of Justice

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

This page is intentionally blank.

**An Act to Amend Chapter 154
of the Revised Statutes, 1989,
the Evidence Act**

Be it enacted by the Governor and Assembly as follows:

1 Chapter 154 of the Revised Statutes, 1989, the *Evidence Act*, is amended by adding immediately after Section 23H the following heading and Sections:

ELECTRONIC COURT DOCUMENTS

23I In this Section and Sections 23J to 23M,

(a) “electronic court document” means information that

(i) is recorded or stored on any medium in or by an electronic court system, and

(ii) can be read or perceived by a person, or by a computer system or other similar device,

and includes a display, printout or other output of that information, other than a printout that has been manifestly or consistently acted on, relied on or used as the record of the information shown on the printout;

(b) “electronic court system” means an electronic information or record system that is

(i) maintained by or on behalf of a court for the purposes of the administration of justice, including a court case management or tracking system, and

(ii) designated pursuant to Section 23M as an electronic court system;

(c) “prescribed” means prescribed by the regulations made pursuant to Section 23M;

(d) “secure electronic signature” means an electronic signature that is applied to a prescribed electronic record

(i) by a prescribed person, and

(ii) in accordance with any prescribed terms, conditions or restrictions.

23J (1) Sections 23K and 23L

(a) apply only in respect to determining the admissibility of electronic court documents stored in or produced by an electronic court system; and

(b) do not modify the common law relating to the admissibility of records except as set out in those Sections.

(2) Notwithstanding clause (1)(a), in the event of an inconsistency or conflict between Sections 23K and 23L and any other enactment, the other enactment prevails to the extent of the inconsistency or conflict.

23K Where an electronic court document is accompanied by a secure electronic signature, the electronic court document is presumed, in the absence of evidence to the contrary, to have been signed by the person who is identified in, or can be identified through, the secure electronic signature.

23L Notwithstanding any rule to the contrary, an electronic court document

- (a) is admissible in evidence;
- (b) has the same probative force as an original document; and
- (c) may be accepted as an original document,

unless, on cause shown before the court, the court has reason to doubt the integrity of the electronic court document, either because reliable encryption techniques were not used to support the making of the electronic court document or for another reason.

23M (1) The Governor in Council may make regulations for the purpose of Sections 23I to 23L

- (a) designating classes of electronic information or record systems as electronic court systems for the purpose of clause 23I(b);
- (b) prescribing classes of persons who may apply electronic signatures to electronic records;
- (c) prescribing the classes of electronic records to which electronic signatures may be applied;
- (d) respecting terms, conditions or restrictions relating to the application of electronic signatures to electronic records;
- (e) conferring a discretion in respect to the matters set out in clauses (b) to (d).

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

2 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
