

ELECTRONIC TRANSACTIONS DEVELOPMENT AGENCY ACT,
B.E. 2562 (2019)

HIS MAJESTY KING MAHA VAJIRALONGKORN BODINDRADEBAYAVARANGKUN;

Given on the 12th Day of April B.E. 2562;

Being the 4th Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is expedient to have the law to establish the Electronic Transactions Development Agency;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly serving as the National Assembly, as follows.

Section 1. This Act is called the “the Electronic Transactions Development Agency Act, B.E. 2562 (2019)”.

Section 2.¹ This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. In this Act:

“Electronic Transactions Commission” means the Electronic Transactions Commission under the law on Electronic Transactions;

“Board” means the Electronic Transactions Development Agency Supervisory Board;

“Member” means a member of the Electronic Transactions Development Agency Supervisory Board;

“Agency” means the Electronic Transactions Development Agency

“Executive Director” means the Executive Director of the Electronic Transactions Development Agency

“Minister” means the Minister having charge and control of the execution of this Act.

¹ Published in Government Gazette, Vol. 136, Part 49a, dated 14th April 2019.

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Section 4. There shall be an Electronic Transactions Development Agency which shall have the objectives of promoting and supporting the development of electronic transactions and electronic commerce for the country, to mobilise the State's policy and plans on electronic transactions and electronic commerce compatibly with the National Digital Economy and Society Development Plan and Policy , including to promote the establishment of standards and rules for the use of digital technology in order to ensure the efficient linkage of digital technology system and the security and trustworthiness thereof.

The Agency shall be a State agency having juristic personality and shall not be a Government agency under the law on State administration, or a State enterprise under the law on budgetary procedures or any other law.

The undertakings of the Agency shall not fall under the jurisdiction of the law on labour protection, the law on labour relations, the law on social security, and the law on compensation. However, employees and contractors of the Agency must receive no less remuneration than that which is prescribed by the law on labour protection, the law on social security, and the law on compensation.

The Agency shall be a State agency under the law on tortious liability of officials.

Section 5. Other than acting to further the objectives under section 4 paragraph one, the Agency shall be responsible for the administrative work of the Electronic Transactions Commission, and shall also have the following duties and powers:

(1) to prepare a strategic plan on electronic transactions for the consideration and approval by the Electronic Transactions Commission;

(2) to prepare a strategic plan on the development of an infrastructure for standards which conforms to the National Digital Economy and Society Development Plan and Policy;

(3) to promote and support relevant agencies, in both the Government and the private sectors to enable the use of electronic transactions and electronic commerce to accommodate the development of the country in different areas including finance, commerce, investment, import and export, as well as the provision of Government services to members of the public, in conformity with the strategic plan on electronic transactions;

(4) to study, research, and develop digital technology to accommodate the use of electronic transactions and electronic commerce by agencies from both the Government and the private sectors, as well as to promote the design of digital technology architecture for recommendation to the Electronic Transactions Commission in the prescription of standards for such matters;

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(5) to prepare recommendations on standards, and relevant measures or mechanisms of supervision for the use of electronic transactions and electronic commerce so that agencies both in the Government and the private sectors may utilise digital technology that conforms and interconnects securely and with trustworthiness;

(6) to supervise the operation of a business providing relating to electronic transactions under the Royal Decree enacted under the law on Electronic Transactions, including to support the operation of such businesses providing services relating to electronic transactions;

(7) to analyse and certify conformity and correctness according to the standards or measures or mechanisms of supervision for the use of electronic transactions and electronic commerce;

(8) to be the center for the provision of academic services or for the provision of services relating to the development, promotion, and support of the use of electronic transactions and electronic commerce to State agencies, private agencies, and members of the public, including to disseminate and to provide knowledge and understanding of the use of electronic transactions and electronic commerce;

(9) to establish agreements and to cooperate with organisations and agencies both domestically and internationally on matters relating to the duties and powers of the Agency;

(10) to provide training to elevate standards of personnel of the Agency and third parties to instill skills relating to standards, security and trustworthiness in the system and in the provision of electronic transactions services and electronic commerce;

(11) to perform other duties as the Electronic Transactions Commission or the Board designates, or as designated by law.

Section 6. In the performance of work by the Agency, apart from the duties and powers as described by Section 5, the Agency shall have the following general duties and powers:

(1) to have ownership, possessory right and other real rights;

(2) to create a right or engage in any juristic act related to property, including engaging in any juristic act for the purpose of performing an undertaking by the Agency;

(3) to make available and give funds for supporting the conduct of activities by the Agency;

(4) to collect fees, charges, remuneration and service charges for the performance of work, according to the criteria and rates prescribed by the Agency as approved by the Board;

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(5) to conduct any other acts which the law designates as the duties and the powers of the Agency, or as the Electronic Transactions Commission or the Board so designates.

Section 7. The funds and property for the performance of work by the Agency, shall consist of the following:

(1) money and property transferred thereto under section 35;

(2) general subvention in an appropriate amount as allocated by the Government annually;

(3) fees, dues, remunerations, service charges or income generated from the performance of work by the Agency;

(4) money donated by the private sector or by other organisations, including from abroad or from international organisations, and money and property which is bequeathed;

(5) fruits of money and benefits or any other income derived from the performance of work by the Agency.

The property of the Agency shall not be subject to compulsory execution proceedings and compulsory administrative proceedings.

Section 8. The income of the Agency shall not be remitted to the Ministry of Finance as State revenue.

Section 9. There shall be an Electronic Transactions Development Agency Supervisory Board consisting of a Chairperson appointed by the Minister from persons of knowledge, expertise, and experience in electronic transactions or computer science, the Permanent Secretary of the Ministry of Digital Economy and Society, a representative of the Bureau of the Budget, and six qualified members appointed by the Minister.

The Executive Director shall be *ex officio* member and secretary, and the Executive Director shall appoint not more than two employees of the Agency as assistant secretary as is necessary.

At least three of the qualified members appointed by the Minister under paragraph one must have knowledge, expertise and experience in electronic transactions or computer science, and in other relevant areas beneficial to the performance of work by the Agency.

Section 10. The Chairperson and qualified members shall be of Thai nationality, and shall not be under the following prohibitions:

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- (1) being bankrupt or having been previously bankrupt by dishonesty;
- (2) being an incompetent or a quasi-incompetent person;
- (3) having been imprisoned by a final judgement to imprisonment, except for an offence committed by negligence or a petty offence;
- (4) being or having been a political official, a person holding a political office, a member of local assembly or a local administrator, except having left office for no less than one year;
- (5) being or having been a committee member or having held any other position in a political party, or having been an official of a political party, except having left office for no less than one year;
- (6) having been expelled, dismissed, ordered to resign or removed from employment by a State agency or a State enterprise, or from a private agency due to malfeasance or gross misconduct;
- (7) being self- employed in any other profession, or being a board member, director, or an employee of any other private agency which is a stakeholder or has a conflict of interest, whether directly or indirectly, with the performance of duty as a member and the duties and power of the Agency.

Section 11. The Chairperson and a qualified member shall hold office for a term of four years.

Section 12. Once the Chairperson and a qualified member has vacated office upon expiration of term, appointment of a new Chairperson and a qualified member shall be made within sixty days. For the time where a new Chairperson and a qualified member has not yet been appointed, the Chairperson and qualified member whose office is vacated due to the expiry of term shall remain in office to perform their duties until a new Chairperson and qualified member who has been appointed assumes their duties.

Section 13. In addition to vacating office upon expiration of term under section 11, the Chairperson and a qualified member shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) lacking any quality and being under a prohibition under section 10;
- (4) being dismissed by the Minister due to misbehaviour, misfeasance, or dishonesty in the performance of duties, or incompetence.

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Section 14. In the case where the Chairperson or a qualified member vacates office prior to the expiration of their term, the Board shall consist of the remaining members and appointment shall be made of a Chairperson or a qualified member for the vacated office within sixty days from the day the office is vacated, except in the case where the remaining term of the member is less than ninety days, and the newly appointed person shall be in office for the remaining term of office of the person whom they have replaced.

Section 15. At a meeting of the Board, the presence of not less than one-half of the total number of members is required to constitute a quorum.

The Chairperson shall preside over a meeting. If the Chairperson is not present or is unable to perform the duty, a member shall be elected to preside over the meeting.

A decision of a meeting shall be by a majority of votes. In casting votes, each member shall have one vote. In the case of an equality of votes, the person presiding over the meeting shall have an additional vote as a casting vote.

A member who is a stakeholder in the matter being considered at a meeting shall not participate in the meeting.

A Board meeting may be conducted via electronic means as prescribed by the Board.

Section 16. The Board shall have the following duties and powers:

(1) to establish a policy for the management of work, and to approve the Agency's operational work plans;

(2) to prescribe Regulations for the organisation of the Agency, financial matters, human resources management, the management of administrative work, procurement, internal auditing, including welfare and other benefits of the Agency;

(3) to approve expenditure plans and the Agency's annual expenditure budget;

(4) to oversee the management of work and the operations of the Agency and the Executive Director to be in compliance with this Act and other relevant laws;

(5) to appoint an Executive Director Selection Committee;

(6) to consider appeals of executive administrative orders of the Executive Director regarding the management of work by the Agency to be in accordance with this Act and other relevant laws;

(7) to evaluate the performance of work by the Agency, and the performance of work by the Executive Director;

(8) to perform other duties prescribed by this Act or which any other law prescribes to be the duty and powers of the Board, or as designated by the Council of Ministers.

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For the Regulations under (2), if there are restrictions on the powers of the Executive Director in conducting juristic acts with third parties, it shall be published in the Government Gazette.

Section 17. The Board shall have the power to appoint a sub-committee to perform duties or to perform any act as designated thereby.

The Board may appoint a person with the expertise or experience which may be of benefit to the performance of duty by the Board as a consultant to the Board.

The performance of duties and the number of sub-committee members under paragraph one, or the consultants in paragraph two shall be as prescribed by the Board.

The provisions of section 15 shall also apply to the sub-committee , *mutatis mutandis*.

Section 18. The Chairperson, a member, a consultant to the Board, the Chairperson of a sub-committee and a sub-committee member shall receive a meeting allowance or remuneration in accordance with the criteria prescribed by the Council of Ministers.

Section 19. The Agency shall have an Executive Director appointed by the Board, having the duty of managing the undertakings of the Agency.

Section 20. A person who is appointed as Executive Director shall have the qualifications and not be under any of the following prohibitions:

- (1) being of Thai nationality;
- (2) not being over fifty-eight years of age;
- (3) being able to work for the Agency on a full-time basis;
- (4) being a person with knowledge, capability and experience in a field which is relevant to the tasks of the Agency and in the management thereof;
- (5) not being a bankrupt or having previously been a dishonest bankrupt;
- (6) not being an incompetent or a quasi-incompetent person;
- (7) not having been imprisoned by a final judgement to imprisonment, except for an offence committed by negligence or a petty offence;
- (8) not having been expelled, dismissed, ordered to resign or removed from employment by a State agency or a State enterprise, or from a private agency due to malfeasance or gross misconduct;
- (9) not having been removed from office by law;

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(10) not being a person holding a political office, a member of local assembly or a local administrator, or a person holding an office with responsibility for the management of a political party, a consultant to a political party, or a political official;

(11) not being a stakeholder in a business which is related to the Agency, whether directly or indirectly.

Section 21. The Executive Director shall hold office for a term of four years, and may be reappointed, but may not be appointed for more than two consecutive terms.

No less than thirty days but not more than sixty days prior to the expiry of the term of office of the Executive Director, the Board shall appoint an Executive Director Selection Committee to select a new Executive Director whereby the Executive Director Selection Committee shall propose a list of not more than three suitable persons to the Board.

Section 22. In each year, an evaluation of the performance of work by the Executive Director shall be made in accordance with the time period and the methods prescribed by the Board.

Section 23. In addition to vacating office on the expiration of term under section 21, the Executive Director shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) being sixty years of age;
- (4) being dismissed by the Board as a result of not passing the evaluation of performance of work, having misbehaved, acted in misfeasance or committed a dishonest act in the performance of duties, or incompetence;
- (5) having been imprisoned by a final judgement to imprisonment;
- (6) being disqualified or being under any of the prohibitions under section 20, except in the case of section 20 (2).

Section 24. The Executive Director shall have the following duties and powers:

- (1) to manage the work of the Agency to be accomplished according to the tasks of the Agency, and in accordance with the National Digital Economy and Society Development Plan and Policy, the strategic plan on electronic transactions and the strategic plan on the development of an infrastructure on standards conforming to the said policies and plans, in accordance with the policies of the Council of Ministers, Rules, Regulations and resolutions of the Board;

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(2) to set Rules relating to the performance of work by the Agency which shall not be contrary to or inconsistent with the law, the resolution of the Council of Ministers, as well as with Rules, Regulations, Stipulations, policies, resolutions or Notifications of the Board;

(3) to be the commanding officer of the employees and contractors of the Agency, and to perform work evaluation of the employees and contractors of the Agency in accordance with the Rules or Regulations of the Agency;

(4) to appoint a Deputy Executive Director or an Assistant Executive Director with the approval by the Board to assist with the performance of the work of the Executive Director as designated thereby;

(5) to assign, appoint, promote, demote, reduce salary or wages, to discipline employees and contractors of the Agency, including to dismiss employees and contractors of the Agency from work in accordance with the Regulations prescribed by the Board;

(6) to perform any other act according to the Rules, Regulations, Stipulations, policies, resolutions or Notifications of the Board.

The Executive Director shall be directly responsible to the Board for the management of the Agency's work.

Section 25. For the undertakings of the Agency concerning third parties, the Executive Director shall represent the Agency. In this matter, the Executive Director may authorise any person to perform a specific official duty on their behalf, in accordance with the Regulations prescribed by the Board.

Section 26. The Board shall set the salary rate and other remunerations of the Executive Director in accordance with the criteria set by the Council of Ministers.

Section 27. For the purpose of the management of work by the Agency, the Executive Director may request officials, employees, or contractors of a Government agency, a State enterprise, a local administration, a public organization, or any other State agency to perform work as an employee or a contractor on a temporary basis. The secondment shall be upon approval by the commanding official or employer of such person, and once an agreement is made for such approval, and in the case where such State official has received approval to perform work as an employee or a contractor on a temporary basis, it shall be deemed a permission to leave official service, or to leave service to perform other work.

Upon completion of the time period approved for performance of work at the Agency, the State official under paragraph one shall have the right to be assigned to a post and to receive a salary at the initial Government agency or the initial agency at the post and salary level that is not lower than the agreement made for the approval.

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In the case where such State official is re-assigned and re-appointed at the initial Government agency under paragraph two, the time period for the performance of work at the Agency shall be counted towards the calculation of pensions or other similar forms of remunerations as though such person were to have fully performed such official service or work, as the case may be.

Section 28. An official or a State official who is currently performing work to repay a scholarship received from a Government agency or a State agency who performs their duty at the Agency upon granting of permission by the commanding official at their original affiliation shall be deemed to be performing work to repay their scholarship according to the terms of their scholarship contract, and the time period for which work is performed at the Agency shall be counted towards the time period due for the performance of work for the repayment of their scholarship.

In the case where any State agency wishes to request an employee of the Agency who is currently performing work to repay a scholarship received from the Agency to work as an official or a Government employee at such State agency, permission must first be granted by the Executive Director, and the performance of work at such State agency shall be deemed as performance of work to repay the scholarship according to the terms of their scholarship contract, and the time period for which work is performed at such State agency shall be counted towards the time period due for the performance of work for the repayment of their scholarship.

Section 29. The financial reporting of the Agency shall be made in accordance with international financial accounting principles, in accordance with the form and criteria prescribed by the Board.

Section 30. The Agency shall prepare its balance sheet, financial statements and operating accounts and submit them to the auditor within one hundred and twenty days from the end of every fiscal year.

The Office of the Auditor General or an auditor approved thereby shall audit the accounts of the Agency and shall assess the expenditures and property of the Agency on an annual basis and shall submit an audited report to the Board for approval.

Section 31. The Agency shall prepare an annual report to submit to the Board and the Council of Ministers within one hundred and eighty days as from the end of every fiscal year and shall disclose such report to the public.

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The annual report under paragraph one shall contain the details of the financial statements with the opinions of the auditor, together with the accomplishments of the Agency and a report on the evaluation of the Agency's performance of work during the past year.

The evaluation of the Agency's performance of work under paragraph two shall be made by a third party which has been approved by the Board.

Section 32. The Minister shall have the power of general oversight of the undertakings of the Agency to be in accordance with the duties and powers, and in accordance with the laws, Government policy, strategic plans and relevant Ministerial Council resolutions. For this matter, the Minister shall have the power to order the Executive Director to give statements of facts, to give opinions, or to furnish a report thereto, and shall have the power to order the Agency to stop any activity which contradicts with the duties and the powers of the Agency, a Government policy, a strategic plan, or a relevant Ministerial Council resolution, including the power to order an investigation of any facts relating to the conduct of activities by the Agency.

In the case where the Executive Director violates or fails to act in accordance with the Order of the Minister under paragraph one, the Minister shall submit the matter to the Board to consider taking action in accordance with the duties and powers thereof.

Section 33. The Electronic Transactions Development Agency Supervisory Commission under the Royal Decree establishing the Electronic Transactions Development Agency (Public Organisation), B.E. 2554 (2011) who is in office on the day prior to the date this Act comes into force shall perform the duty of the Board as is necessary under this Act until a new Board is appointed under this Act, which shall be not more than one hundred and eighty days as from the day this Act comes into force.

Section 34. In the initial phase, the person holding office of Executive Director of the Electronic Transactions Development Agency (Public Organisation) under the Royal Decree establishing the Electronic Transactions Development Agency (Public Organisation), B.E. 2554 (2011) on the day prior to the date this Act comes into force shall perform the duties of the Executive Director until a new Executive Director is appointed under this Act.

Section 35. Upon entry into force of this Act, the Royal Decree establishing the Electronic Transactions Development Agency (Public Organisation), B.E. 2554 (2011) shall be repealed, and all undertakings, properties, rights, duties, liabilities, employees and contractors, and funds of the Electronic Transactions Development Agency (Public Organisation) under the Royal Decree establishing the Electronic Transactions Development Agency (Public

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Organisation), B.E. 2554 (2011) existing on the day prior to the date this Act comes into force shall be transferred to the Agency.

The employees and contractors which have been transferred under paragraph one shall receive a salary, position allowance or wage including privileges and benefits equal to the amount received prior to the transfer until they are assigned and appointed to a post in the Agency, whereupon they shall receive a salary or wage not lower than the salary or wage previously received.

In the case where an employee or a contractor is under a Rule or an employment contract which does not stipulate a term of employment, it shall not be deemed that such employment which does not stipulate a term constitutes a privilege or benefit under paragraph two.

The assignment and appointment of an employee or contractor under paragraph two shall not be deemed a termination due to the termination of employment by the original affiliation.

Section 36. The provisions on the qualifications and the prohibitions, removal from office and the performance of work by employees and contractors of the Electronic Transactions Development Agency (Public Organisation) as prescribed in the Royal Decree establishing the Electronic Transactions Development Agency (Public Organisation), B.E. 2554 (2011) shall apply to the employees and contractors of the Agency , until Regulations relating to such matters are enacted under this Act.

Section 37. In the initial period, in the case where the budget transferred under section 35 paragraph one is insufficient for the performance of work by the Agency, the Executive Director shall submit a proposal to the Council of Ministers for a grant of general subvention for use as expenses in the performance of work in accordance with the objectives of the Agency.

The Council of Ministers shall consider the allocation of funds from the annual appropriations to provide a general subvention in accordance with the proposal of the Executive Director as is necessary and appropriate.

Section 38. Joint ventures, borrowing of funds and any operation which is necessary or continuous for the attainment of the objectives of the Electronic Transactions Development Agency (Public Organisation) as prescribed in the Royal Decree establishing the Electronic Transactions Development Agency (Public Organisation), B.E. 2554 (2011) which was carried out prior to the day this Act comes into force and is not yet complete shall be continued until such undertaking is complete.

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Section 39. All Rules, Regulations and Notifications issued under the Royal Decree establishing the Electronic Transactions Development Agency (Public Organisation), B.E. 2554 (2011) in force on the day prior to the day on which this Act comes into force shall continue to be in force insofar as they are not contrary to or inconsistent with this Act until Rules, Regulations or Notifications are issued under this Act.

Section 40. The Minister of Digital Economy and Society shall have charge and control of the execution of this Act.

Countersigned by:

General Prayut Chan-o-cha
Prime Minister

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Remarks : The rationale for the promulgation of this Act is that currently the Electronic Transactions Development Agency (Public Organisation), having the status of a public organisation under the law on public organisation, has the duty to promote and support the use of transactions only for particular agencies. With advances in technology and the development of digitality for the economy and the society, it is necessary to develop, promote, and support the use of electronic transactions of the country to be in accordance with the policy and strategy of the Commission as a national-level commission, and whereas it is necessary for systematic supervision of the operation of a business relating to electronic transactions that complies with international standards, with the ability to compete with other countries. Integration is also needed for the performance of work between State agencies in matters relating to the promotion of the private sector in the country's use of electronic transactions, of electronic commerce, and of other relevant fields. It is therefore appropriate for the existence of an agency which is flexible in its management of work and is effective for accepting responsibility to undertake such tasks. In this regard, the status and the duties and powers of the Electronic Transactions Development Agency (Public Organisation) is revised so that it may perform work according to its tasks appropriately and in accordance with the national policy and strategic plans for the development and support of the use of electronic transactions, it is therefore necessary to promulgate this Act.

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