



# 2023 年英國貿易單證法

一部針對電子貿易單證為規定的法案；並可使用於相關目的

2023 年 7 月 20 日

2023 年第 38 部法

## Electronic Trade Documents Act 2023

An Act to make provision about electronic trade documents; and for connected purposes.

[20th July 2023]

2023 CHAPTER 38

### 2023 UK-ETDA

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

由至高無上的國王陛下，經神聖及現世的上議院及下議院，於其建議及同意下，於本屆議會，經其授權，頒佈如下：

#### 1. Definition of “paper trade document”

(1) A document is a “paper trade document” for the purposes of this Act if—

- (a) it is in paper form,
- (b) it is a document of a type commonly used in at least one part of the United Kingdom in connection with—
  - (i) trade in or transport of goods, or
  - (ii) financing such trade or transport, and
- (c) possession of the document is required as a matter of law or commercial custom, usage or practice for a person to claim performance of an obligation.

(2) The following are examples of documents that are commonly used as mentioned in subsection (1)(b)—

- (a) a bill of exchange;
- (b) a promissory note;
- (c) a bill of lading;
- (d) a ship's delivery order;

#### 1. 「紙本貿易單證」的定義

(1) 就本法而言，於符合以下條件，該單證屬「紙本貿易單證」：

- (a) 其為紙本形式，
- (b) 該單證至少為英國某一地區通常使用且與下列有關的單證：
  - (i) 貨物貿易或運輸，或
  - (ii) 為此類貿易或運輸提供資金，及
- (c) 依法律或商業慣例、慣習或實務，個人必須擁有該單證方可主張義務之履行。

(2) 以下是第(1)項(b)款所述及的通常使用單證範例—

- (a) 匯票；
- (b) 本票；
- (c) 載貨證券(提單)；
- (d) 船舶小提單；

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Translated by Dr. Y.K. Huang of FJU Law

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- (e) a warehouse receipt;
- (f) a mate's receipt;
- (g) a marine insurance policy;
- (h) a cargo insurance certificate.

- (e) 倉單；
- (f) 大副收據；
- (g) 海上保險單；
- (h) 貨物保險證明。

## 2. Definition of “electronic trade document”

- (1) This section applies where information in electronic form is information that, if contained in a document in paper form, would lead to the document being a paper trade document.
- (2) The information, together with any other information with which it is logically associated that is also in electronic form, constitutes an “electronic trade document” for the purposes of this Act if a reliable system is used to—
  - (a) identify the document so that it can be distinguished from any copies,
  - (b) protect the document against unauthorised alteration,
  - (c) secure that it is not possible for more than one person to exercise control of the document at any one time,
  - (d) allow any person who is able to exercise control of the document to demonstrate that the person is able to do so, and
  - (e) secure that a transfer of the document has effect to deprive any person who was able to exercise control of the document immediately before the transfer of the ability to do so (unless the person is able to exercise control by virtue of being a transferee).
- (3) For the purposes of subsection (2)—
  - (a) a person exercises control of a document when the person uses, transfers or otherwise disposes of the document (whether or not the person has a legal right to do so), and
  - (b) persons acting jointly are to be treated as one person.
- (4) Reading or viewing a document is not, of itself, sufficient to amount to use of the document for the purposes of subsection (3)(a).
- (5) When determining whether a system is reliable for the purposes of subsection (2), the matters that may be taken into account include—
  - (a) any rules of the system that apply to its operation;
  - (b) any measures taken to secure the integrity of information held on the system;
  - (c) any measures taken to prevent unauthorised access to and

## 2. 「電子貿易單證」的定義

- (1) 本條適用於電子形式的資訊—如包含於紙本形式單證中，可使該單證成為紙本貿易單證。
- (2) 如一可靠系統具以下功能，則該資訊及與其邏輯相關的任何其他電子形式資訊可構成本法的「電子貿易單證」：
  - (a) 識別該單證，以便與任何副本區分，
  - (b) 保護單證免遭未經授權更改，
  - (c) 確保任何時候不能有超過一人對該單證行使控制權，
  - (d) 允許任何能控制該單證之人證明其有能力如此為之，且
  - (e) 確保單證的轉讓能有效剝奪在轉讓之前能對該單證行使控制權的任何人如此為之之能力（除非該人能憑藉作為受讓人的身份行使控制權）。
- (3) 為第(2)項之目的—
  - (a) 於某人使用、轉讓或以其他方式處置單證時，該人就對該單證行使控制權（無論該人是否有如此為之之合法權利），且
  - (b) 共同作為之人應被視為一人。
- (4) 閱讀或檢視單證本身並不足以構成第(3)項(a)款所述單證使用。
- (5) 於決定一系統是否可靠（就第(2)項目的）時，可考慮事項包括—
  - (a) 適用於其運作系統之任何規則；
  - (b) 為確保系統中資訊的完整性而採取的任何措施；
  - (c) 為防止未經授權存取及使用系



- use of the system;
- (d) the security of the hardware and software used by the system;
- (e) the regularity of and extent of any audit of the system by an independent body;
- (f) any assessment of the reliability of the system made by a body with supervisory or regulatory functions;
- (g) the provisions of any voluntary scheme or industry standard that apply in relation to the system.

- 統而採取的任何措施；
- (d) 系統所使用的硬體及軟體的安全性；
- (e) 獨立機構對系統進行審計的規律性及範圍；
- (f) 具有監督或監管職能的機構對系統可靠性進行的任何評估；
- (g) 與系統相關的任何自願計畫或行業標準的規定。

### 3. Possession, indorsement and effect of electronic trade documents

### 3. 電子貿易單證的持有、背書及效力

- (1) A person may possess, indorse and part with possession of an electronic trade document.
- (2) An electronic trade document has the same effect as an equivalent paper trade document.
- (3) Anything done in relation to an electronic trade document has the same effect (if any) in relation to the document as it would have in relation to an equivalent paper trade document.
- (4) An electronic trade document is to be treated as corporeal moveable property for the purposes of any Act of the Scottish Parliament relating to the creation of a security in the form of a pledge over moveable property.

- (1) 一人可佔有、背書及放棄佔有電子貿易單證。
- (2) 電子貿易單證與其同等的紙本貿易單證具有同等效力。
- (3) 與電子貿易單證相關的任何行為對該單證具有與對同等紙本貿易單證相同的效力(如有)。
- (4) 就蘇格蘭議會有關以動產質押方式設立擔保的任何法案言，電子貿易單證應被視為動產。

### 4. Change of form

### 4. 形式的改變

- (1) A paper trade document may be converted into an electronic trade document, and an electronic trade document may be converted into a paper trade document, if (and only)
  - (a) a statement that the document has been converted is included in the document in its new form, and
  - (b) any contractual or other requirements relating to the conversion of the document are complied with.
- (2) Where a document is converted in accordance with subsection (1)
  - (a) the document in its old form ceases to have effect, and
  - (b) all rights and liabilities relating to the document continue to have effect in relation to the document in its new form.

- (1) 紙本貿易單證可轉換為電子貿易單證，且電子貿易單證可轉換為紙本貿易單證，於(且僅限 -
  - (a) 單證已轉換之聲明已包含在新形式單證中，且
  - (b) 遵守與單證轉換相關的任何契約或其他要求。
- (2) 依第(1)項規定轉換單證時 -
  - (a) 舊形式的單證不再有效，且
  - (b) 與該單證相關的所有權利及責任對新形式單證繼續有效。



## 5. Exceptions

- (1) If an intention that section 3 should not apply in relation to an electronic trade document appears in, or can reasonably be inferred from, the document or terms that have effect in relation to the document—
  - (a) that section does not apply in relation to the document, and
  - (b) section 4 also does not apply in relation to it.
- (2) Sections 1 to 4 do not apply in relation to—
  - (a) an uncertificated unit of a security that is transferable by means of a relevant system in accordance with the Uncertificated Securities Regulations 2001 (S.I. 2001/3755), or
  - (b) a document or instrument of a type specified in regulations made by the appropriate authority.
- (3) The Secretary of State may by regulations amend this section so as to amend or remove the exception conferred by subsection (2)(a).
- (4) The Secretary of State must consult the Scottish Ministers before making regulations under subsection (2)(b) that contain provision that is to have effect in relation to Scotland.
- (5) Subsection (4) does not apply if the regulations are to be made by the Secretary of State and the Scottish Ministers acting jointly.
- (6) Regulations under this section may include incidental, consequential, transitional or saving provision.
- (7) “The appropriate authority”, in relation to regulations under subsection (2)(b), means—
  - (a) in any case, the Secretary of State or the Secretary of State and the Scottish Ministers acting jointly;
  - (b) in a case in which all of the provision made by the regulations is within Scottish devolved competence, the Scottish Ministers.
- (8) Provision is within Scottish devolved competence if it is provision which would be within the legislative competence of the Scottish Parliament if contained in an Act of that Parliament.

## 6. Regulations under section 5

- (1) Any power to make regulations under section 5, so far as exercisable by the Secretary of State acting alone or by

## 5. 例外情況

- (1) 如第 3 條不適用於電子貿易單證的意圖出現在該單據或對該單據有效的條款中時，或可合理從中推斷出—
  - (a) 該條不適用於該單證，且
  - (b) 第 4 條亦同樣不適用。
- (2) 第 1 條至第 4 條不適用於—
  - (a) 依據 2001 年非認證證券條例 (S.I.2001/3755) 透過相關系統轉讓的非認證證券單位，或
  - (b) 有關機關制定的法規中有明確指定類型的單證或文書。
- (3) 國務大臣可經由法規修訂本條文，以修訂或取消第(2)項 a) 款所賦予之例外情況。
- (4) 於依據第(2)項(b)款制定包含對蘇格蘭有效條款的法規前，國務大臣必須與蘇格蘭首席部長進行諮商。
- (5) 若法規係由國務大臣與蘇格蘭首席部長共同制定，則不適用第(4)項規定。
- (6) 本條規定可包括附帶性、延續性的、過渡性或保留性的規定。
- (7) “有關機關”，就第(2)項(b)款規定而言，係指—
  - (a) 在任何情況下，由國務大臣或國務大臣與蘇格蘭首席部長共同行事；
  - (b) 若法規中的所有條款均屬於蘇格蘭的權力範圍，則由蘇格蘭首席部長負責。
- (8) 如該條款包含在蘇格蘭議會法案中，則該條款屬於蘇格蘭議會的立法權限。

## 6. 第 5 條規定

- (1) 依據第 5 條制定法規的任何權力，只要可由國務大臣單獨行使



the Secretary of State and the Scottish Ministers acting jointly, is exercisable by statutory instrument.

- (2) For regulations made under section 5 by the Scottish Ministers acting alone, see section 27 of the 2010 Act (Scottish statutory instruments).
- (3) A statutory instrument containing regulations made under section 5 by the Secretary of State acting alone, or by the Secretary of State and the Scottish Ministers acting jointly, may not be made unless a draft of the instrument containing the regulations has been laid before and approved by a resolution of each House of Parliament.
- (4) Regulations made under section 5 by the Scottish Ministers acting alone, or by the Secretary of State and the Scottish Ministers acting jointly, are subject to the affirmative procedure (see section 29 of the 2010 Act).
- (5) Where regulations are made under section 5 by the Secretary of State and the Scottish Ministers acting jointly—
  - (a) section 29 of the 2010 Act (affirmative procedure) applies in relation to the regulations as it applies in relation to devolved subordinate legislation (within the meaning of Part 2 of that Act) which is subject to the affirmative procedure, but as if references to a Scottish statutory instrument were to a statutory instrument, and
  - (b) section 32 of the 2010 Act (laying) applies in relation to the laying before the Scottish Parliament of the statutory instrument containing the regulations as it applies in relation to the laying before that Parliament of a Scottish statutory instrument (within the meaning of Part 2 of that Act).
- (6) In this section “the 2010 Act” means the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

## 7. Consequential provision

- (1) In section 89B(2) of the Bills of Exchange Act 1882 (instruments to which section 89A applies), at the end insert “or to anything that is an electronic trade document for the purposes of the Electronic Trade Documents Act 2023 (see section 2 of that Act).”
- (2) In section 1 of the Carriage of Goods by Sea Act 1992 (shipping documents etc), omit subsections (5) and (6).

或由國務大臣與蘇格蘭首席部長共同行使，均可透過法定文書行使。

- (2) 蘇格蘭首席部長可單獨依據第 5 條制定的法規，可參閱 2010 年法(蘇格蘭法定文書)第 27 條。
- (3) 包含由國務大臣單獨或由國務大臣及蘇格蘭首席部長共同制定依據第 5 條制定法規之法定文書，除已將包含法規的文書草案提交者外，不得制定並經議會各院決議批准。
- (4) 蘇格蘭首席部長單獨或由國務大臣及蘇格蘭首席部長聯合採取依據第 5 條制定的法規須遵守確認程序(參見 2010 年法第 29 條)。
- (5) 如國務大臣及蘇格蘭首席部長共同依據第 5 條制定規定—
  - (a) 2010 年法第 29 條(確認程序)適用於法規，一如其適用於受確認程序拘束的授權附屬立法(於該法第 2 部分含義內)，如同述及蘇格蘭法定文書為法定文書，且
  - (b) 2010 年法第 32 條(頒布)適用於向蘇格蘭議會提交包含法規的法定文書，一如其適用於向議會提交蘇格蘭法定文書一樣(該法第 2 部分含義範圍內)。
- (6) 於本條文，「2010 年法」係指 2010 年解釋及立法改革(蘇格蘭)法(編號 asp10)。

## 7. 附帶規定

- (1) 1882 年匯票法第 89B(2)條(第 89A 條所適用文書)末尾插入「或 2023 年電子貿易單證法屬於電子貿易單證的任何事物(參閱該法第 2 條)。」
- (2) 1992 年海上貨物運輸法第 1 條(運輸單證等)中，省略第(5)及(6)款。



## 8. Extent, commencement and short title

- (1) This Act extends to England and Wales, Scotland and Northern Ireland, except that section 3(4) extends only to Scotland.
- (2) This Act comes into force at the end of the period of two months beginning with the day on which it is passed.
- (3) Sections 3 and 4 do not apply in relation to a paper trade document or an electronic trade document issued before the day on which this Act comes into force.
- (4) This Act may be cited as the Electronic Trade Documents Act 2023.

## 8. 適用範圍、實施時間及簡稱

- (1) 本法適用於英格蘭及威爾斯、蘇格蘭及北愛爾蘭，但第3條(4)項僅適用於蘇格蘭。
- (2) 本法自通過日起兩個月後生效。
- (3) 第3條及第4條不適用於本法生效日前所簽發的紙本貿易單證或電子貿易單證。
- (4) 本法稱 2023 年電子貿易單證法。