

Guide for Certifying Authority And Certifying Agents In Relation To The Electronic Records (Evidence) Regulations, 2015.

Definitions

1. In this Guide, unless the context otherwise requires:
 - “certifying agent” means a person or an organisation appointed by the certifying authority;
 - “compliance criteria” means the criteria in the First Schedule of the Electronic Records (Evidence) Regulations, 2015;
 - “contract” means the commercial contract between the certifying authority and the certifying agent for the purpose of procuring the service of the latter; and
 - “review” means the act of the certifying agent to check for compliance with the compliance criteria.

Appointment of certifying agent

2. Any person or organisation may apply to the certifying authority to be appointed as a certifying agent in the manner provided in this Guide.
3. The certifying authority will enter into a contract with each appointed certifying agent.



Manner of application

4. Every application for appointment as a certifying agent shall be made in such form as the certifying authority may determine and shall be submitted together with such documents and information as may be required on the form.

Fees

5. The fees as may be prescribed by the certifying authority shall be payable for every application made under this Guide.

Further documents or information

6. The certifying authority may require each applicant to furnish such further documents or information as he may require.

Consultation

7. The certifying authority may, in considering an application for appointment as a certifying authority, consult such other persons or organisations as he may think necessary.

Duties of certifying agent

8. A certifying agent shall review a process or part thereof against the compliance criteria, report his findings to the certifying authority and recommend the type of certificate, if applicable, that the certifying authority ought to issue.
9. A certifying agent shall ensure that, in reviewing any process, it complies with the following:



- (1) the certifying agent shall be independent and be seen to be independent of the person or organisation seeking certification, the service provider of the process, and the vendors of the electronic records system(s), which form(s) part of the process;
 - (2) the certifying agent shall have a sufficient number of professionals with adequate experience and qualifications in the evaluation of process, including security of computer systems;
 - (3) the certifying agent shall carry out its duties independently and without fear or favour;
 - (4) the certifying agent shall establish its risk management and review processes, using the guides in Appendix 1;
 - (5) the certifying agent shall ensure that the review procedures have been properly carried out and meticulously documented;
 - (6) the certifying agent shall comply with such other directions as the certifying authority may issue in writing in relation to the procedures for ensuring compliance; and
 - (7) the certifying agent shall keep proper records and reports of the review process.
10. A certifying agent shall obtain from the appropriate parties, who provided information in the review process, and in the case of an organisation being reviewed, the management and individuals of the organisation, written representations to both the certifying authority and the certifying agent that:



(1) The party has not provided information, which he or she knows to be false, ought to know to be false, or does not reasonably believe to be true; and

(2) The party has not willingly withheld information, which he or she ought to know is relevant to the certification.

Period of appointment of certifying agent

11. A certifying agent shall be appointed for a period of 3 years at one time and it may thereafter apply for reappointment for subsequent periods of 3 years upon payment of the prescribed fee.

Revocation of appointment

12. The appointment of a certifying agent may be revoked, or the renewal thereof refused if the certifying agent:
- (1) is in breach of any provision in Clause 9 or directions issued by the certifying agent;
 - (2) is in breach of any condition in the contract with the certifying authority;
 - (3) or any person employed by the agent for the purposes of the agent's business has been convicted of an offence the conviction for which involved a finding that the agent or any of its employees acted fraudulently or dishonestly;
 - (4) becomes an undischarged bankrupt or has made a composition or an arrangement with the agent's creditors;



- (5) is in the course of being wound up or liquidated or has entered into a compromise or scheme of arrangement with its creditors;
 - (6) has a receiver or a receiver and manager appointed to the agent;
 - (7) does not have sufficient persons with the qualifications and experience to perform the duties in connection with the certification for an approved process; or
 - (8) is guilty of improper conduct or has brought discredit to certification community.
13. If the appointment of a certifying agent is revoked or terminated, the agent shall forthwith submit to the certifying authority all certificates, records and reports of the certification process.



Appendix 1

RISK MANAGEMENT AND CERTIFICATION PROCESSES

Introduction

1. Certifying agents have to perform their work diligently and safeguard the interests of the certifying authority and themselves. In this regards, certifying agents should adopt adequate and prudent risk management and review processes.
2. The risk management and review processes described in the table below are to serve as guides for certifying agents. Certifying agents may tailor them and expand on them based on their organisation's established practices and risk appetite. However, the certifying authority reserves the right to request certifying agents to change their practices or to revoke their contract should the certifying authority view that the practice of the certifying agent is not in the interest of any party.



Risk management and review processes	Activities that the certifying agent should undertake	Documents to support the activities
Client Acceptance	<ul style="list-style-type: none"> • Identify and assess the risks posed by accepting this client • Meet the client's management to ensure they understand and are willing to fulfil their duties in the certification exercise • Prepare and execute a proper engagement contract with the client 	<ul style="list-style-type: none"> • Internal questionnaire for risk assessment • Documentation to support the decision to accept the client • Minutes of meeting with management • Client engagement contract, including management undertakings and indemnity clauses
Fieldwork	<ul style="list-style-type: none"> • Plan the fieldwork • Prepare checklist to ensure that all important aspects of the fieldwork are covered • Document the fieldwork • Have supervisory reviews over the work performed (quality control) 	<ul style="list-style-type: none"> • Planning template • Information/document request list • Working papers



<p>Reporting</p>	<ul style="list-style-type: none"> • Prepare written issues • Meet with management to clear issues • Submit review conclusion together with certification recommendation to the certifying authority 	<ul style="list-style-type: none"> • Issue sheets • Minutes of meeting • Report to certifying authority
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