

# **ELECTRONIC EVIDENCE: DEFINING DOCUMENT AND RECORD**

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DOI: [doi.org/10.55662/AJMRR.2022.3404](https://doi.org/10.55662/AJMRR.2022.3404)

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## **ABSTRACT**

### ***Purpose***

This paper aimed at examining definition of document and record in the law of evidence in different jurisdictions. This is due to the fact that the meaning of document and record as regards to their uses in legal matters has remained contentious in different jurisdictions. The paper has made a comparative analysis of definition of document with the aim of coming with the definition that is comprehensive enough to cover the further development of technology. Moreover, the study aimed at discussing the application of document in the court proceedings.

### ***Design/Methodology***

This paper has used descriptive study design. Empirical comparative analysis method has been employed by analysing definition of document as enshrined in different legislations of different countries and their application in court proceedings. The surveyed countries include Tanzania, Canada, US and Australia. The criteria for selection of countries involved in this study were based on convenience and availability of information needed. This study employed empirical juridical approach. Different court decision were obtained and examined. With the use of this study design, the paper has been able to meet its objectives. In general, the study used both purposive (probability) and judgement (non probability) sampling design technique

### ***Findings***

[Asian Journal of Multidisciplinary Research & Review \(AJMRR\)](#)

ISSN 2582 8088

Volume 3 Issue 4 [July August 2022]

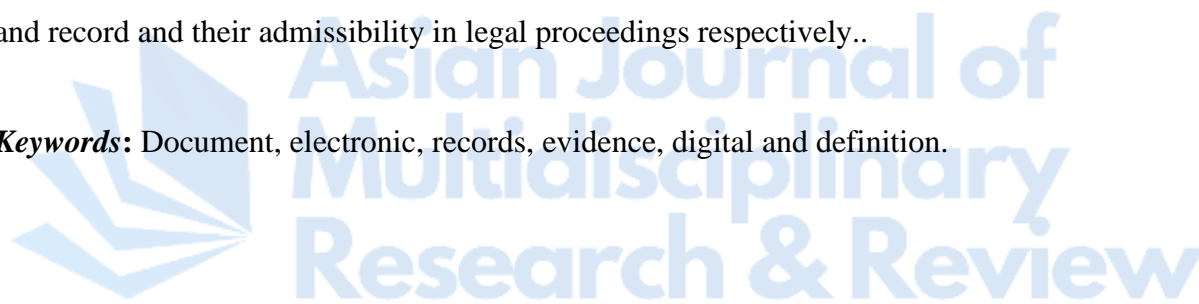
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This paper has found that there is a need of having a comprehensive definition of document and record that accommodates even further technological development. This reduces unnecessary amendments in the future. It was found vital to retain the dichotomy between public and private documents as regards to their admissibility to the court proceedings. It was further observed that the business documents be admissible in the same way as are public documents but their admissibility must be compounded by procedural guidance.

***Original/Value***

This study is important as it alerts the government on the need of having extensive and wide definitions of document that will be comprehensive and future orientated. Through this study, the government will observe the importance of treating the public document and private document differently in judicial proceedings. Finally, it is expected that, this study can be used by other countries to modify their internal legislations as regard to legal definition of document and record and their admissibility in legal proceedings respectively..

**Keywords:** Document, electronic, records, evidence, digital and definition.



## **INTRODUCTION: DEFINING DOCUMENT AND RECORD**

A document is a content file that has information in a structured or unstructured format<sup>i</sup>. It can be edited and is usually kept as a paper or in digital form. However, all records are documents but not all documents are records. It is the content that makes the document record. Usually, records are important for reference in future. Many records start out as documents and then become records when they are finalized. For example, an empty form is a document and then after it is filled in becomes a record.

In essence, records are historical files that provide proof of existence<sup>ii</sup>. These are records which show the event which took place in the past. It is the historical document. For instance, in business, the traders normally record different transactions.

## **DEFINING DOCUMENT AND RECORD IN THE LAW OF EVIDENCE**

### ***Background***

After occurrence of a certain incident, it might happen that all witnesses have kicked the basket. If disputes arise from that incident, the legal proceedings shall depend on all documents associated with that incident. For example, A sold his land to B, in which C witnessed the selling contract, it could happen that A, B and C died, when the disputes arises from that contract, the case shall rely on that contract. It is the synopsis supra that necessitates the need of documents as evidence in the suits. The document however leads to prove what happened and its truth therein. Suppose in the example given supra, if A, B and C did not sign any document and that they all died, the case could have no leg to stand. This is why many countries have made written contracts mandatory, because if it happens that all parties passed away, the litigation stemming from that event can proceed basing on that contract entered by the deceased. Stanfield, R (2016)<sup>iii</sup> observes:

The history of documentary evidence is long and convoluted. The law surrounding documentary evidence has been developed over centuries and has evolved around paper documents. By contrast, electronic evidence has only been in standard use for around 20 years, however, these centuries-old laws are still being applied to electronic evidence.

It should be succinct that not only are contract documents important in legal proceeding but also all other documents which are contemplated to have evidential value. Apparently, there are many documents adduced before the courts by disputants and thus, it is of paramount importance to divulge a comprehensive and *unequivocal definition* of legal document.

Indeed therefore, the legislations must be embedded accurate and a clear on what constitute a legal document. The absence of a comprehensive definition could possibly create uncertainties, irregularities, illegalities and improprieties as each court will have its own interpretation.

Taking into consideration of technological development and its concomitants, it is well unbecoming for present legislations to remain yesterday and continue to provide definition of document which is compounded by absence of technological neutrality.

This Study has discussed the meaning of document as enshrined in the legislations of different jurisdictions with aim of drawing the standard definition which can meet the demands of today's technological advancement.

#### ***Legal Definition of Document in Different Jurisdictions***

This part explains the definition of document in different countries in order to formulate the standard definition which will suit the current environment— which is controlled by the growth of technology.

- **Legal Definition of Document in Tanzania**

According to Tanzania Evidence Act<sup>iv</sup>, the definition is not wide enough as it is embodied by restrictions. Section 3 of Tanzania Evidence Act<sup>v</sup> is hereby quoted in extenso:

‘Document’ means any written handwriting, typewriting, printing, Photostat, photograph and every recording upon any tangible thing, any form of communication or representation by letters, figures, marks or symbols or by more than one of these means which may be used for the purpose of recording any matter provided that such recording is reasonably permanent and readable by sight.

The definition constitutes types of document regardless the means used to extract them but it ends up by putting restriction on recorded documents by saying such recording must be reasonably permanent and readable by sight. However, this condition is archaic and obsolete as it does not seem to take into account technological development. For example it does not include other embedded data which are not typically visible on screen or a print out.

Furthermore, the definition seems not to be wide, because it does not accommodate other form of documents which do not constitute those mentioned in the Act. It could have been broader enough if it had used the word ‘includes’ before mentioning any writing, handwriting, typewriting etc. The word ‘include’ is liberal enough term that can cover even the coming technological means of communication and types of information produced thereof.

- **Legal Definition of Document in Irish Law**

Unlike in Tanzania, the Irish Law of the Criminal Evidence Act 1992 defines document as: “Document” includes:

- (i) A map, plan, graph, drawing or photograph, or
- (ii) A reproduction in permanent legible form, by a computer or other means (including enlarging), of information in non-legible form<sup>vi</sup>.

On the other hand, the Act defines information as follows:

“Information” includes any representation of fact, whether in words or otherwise”.

In addition, the Criminal Justice (Surveillance) Act, 2009 provides wider definition of ‘document’ as;

“Document” includes:

- a) Any book, record or other written or printed material in any form, and
- b) Any recording, including any data or information stored, maintained or preserved electronically or otherwise than in legible form<sup>vii</sup>.

The use of the word ‘includes’ opens the room for other things concomitants which are not mentioned categorically. This impliedly has taken into contemplation of technological advancement in which other kind of prescriptive might emerge and get used without making amendment to the Act.

- **Legal Definition of Document in England and Wales**

The Irish definition of document goes mutatis mutandis with the definition of England and Wales. According to Civil Procedure Rule, 2005 (Eng), document is defined as:

“Document” means anything in which information of any description is recorded; and “copy”, in relation to a document, means anything onto which information recorded in the document has been copied, by whatever means and whether directly or indirectly<sup>viii</sup>.

This definition is wider enough as it covers all documents appearing in descriptions. This impliedly includes electronic documents generated by whatever means.

- **Legal Definition of Document in Australia**

Again, as case in Irish and England and Wales, the West Australia and South Australia definition of document can be used as ladder toward formulation of comprehensive definition of documents. The definitions enshrined in their legislations are accommodative in nature. They are not closed and exclusive. This is evidenced by using use of the the term ‘include’

a) **West Australia (WA)**

According to Interpretation Act, 1998 (WA), the word ‘document’ has been defined as:

‘Document’ includes any publication and any matter written, expressed, or described upon any substance by means of letters, figures, or marks, or by more than one of those means, which is intended to be used or may be used for the purpose of recording that matter<sup>ix</sup>.

b) **South Australia (SA)**

Interpretation Act, 1915 (SA), defines ‘document’ as:

Document includes:

- (a) Any paper or other material on which there is writing;
- (b) Any map, plan, drawing, graph or photograph;

- (c) Any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
- (d) Any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device<sup>x</sup>.

- **Legal Definition of Document in South Africa**

As is the case in for instance in Irish and England, South Africa provides a learning example definition of document. Sections 33 of the Civil Proceedings Evidence Act and section 222 of the Criminal Procedure Act 51 of 1977(CPA) define document as:

A part from its usual meaning includes „any book, map, plan, drawing or photograph“. Section 221(5) of the CPA states that document includes any device by means of which information is recorded or stored, and section 246 includes under that term „any book, pamphlet, letter, circular letter, list, record, placard or poster<sup>xi</sup>“.

- **Legal Definition of Document in US**

In addition to the above, US has also enacted comprehensive definition of document. According to Federal Rules of Civil Procedure (USA) under Rule 26 which governs the discovery and production of document evidence in the court covers both tangible and electronic evidence. The good thing in it is that it enshrines conditions or guidance of its application and this makes it sound more clarity.

It states;

26 (ii) a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defences, unless the use would be solely for impeachment;

As for rule 34 which govern the production of document, it recognizes in the first space electronic and physical document and it is wide enough to cover even new technology without amendment. It provides:

(a) IN GENERAL. A party may serve on any other party a request within the scope of Rule 26(b): (1) to produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody, or control:

(A) any designated documents or electronically stored information—including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form; or (B) any designated tangible things; or (2) to permit entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it<sup>xii</sup>.

- **Legal Definition of Electronic Document in Canada**

As regards to comprehensive definition of electronic document, the Canadian definition provides a seminar case at the point. The definitions enshrined in their legislations are flexible and inclusive by using the term 'include' According to the Electronic Evidence, 1985, 'electronic document is defined as:

Electronic document means data that is recorded or stored on any medium in or by a computer system or other similar device and that can be read or perceived by a person or a computer system or other similar device. It *includes* a display, print out or other output of that data<sup>xiii</sup>.

Electronic Evidence, 1985, defines 'electronic documents system' as includes:

A computer system or other similar device by or in which data is recorded or stored and any procedures related to the recording or storage of electronic documents<sup>xiv</sup>.

It further defines record as:

Record includes the whole or any part of any book, document, paper, card, tape or other thing on or in which information is written, recorded, stored or reproduced, and,



except for the purposes of subsections (3) and (4), any copy or transcript admitted in evidence under this section pursuant to subsection (3) or (4)<sup>xv</sup>

### ***Judicial definition of Document***

There are numerous court decisions in which the document has been comprehensively defined. Few have been discussed below as the case on the point.

In *R.v.Daye*<sup>xvi</sup>, the court suggested the definition of document should be broad. It articulates:

Any written thing capable of being evidence is properly described as document and that is immaterial on what the writing may be inscribed. It may be inscribed not on paper but on parchment; and long before that it was on stones; marble; or clay; and it might be; and often was, on metal. So I should desire to guard myself against being supposed to assent to the argument that things is not a document unless it is a paper writing. I should say it is the document no matter upon what material it be provided it is writing or printing and capable of being evidence

In *Hill v Humphrey*<sup>xvii</sup>, the court has expressed document as:

That document must be something which teaches you something—to constitute a document, the form which it takes seems to be immaterial; stones or metal.

The above supra early broad judicial definition of document has been adopted in different jurisdiction. There are currently legislations that define document as anything in which information of any descriptions is recorded. This is future oriented definition.

In addition, there are court decisions where the document was defined as constituting things such as audio tape, television film, output of facsimile transmission and a label on bottle containing a specimen of blood provided by the accused were admitted as a document. The seminal cases are: in *Grant v South-western and Country Properties Ltd* (1975) where the document was defined as quality to avail information, *Senior v Holdsworth Exp Independent Television News* (1976), *Hastie v and Jenkerson v McMalhon* (1991) where output of facsimile

transmission was admitted as a document and in *Khatib v DPP* (2004) where and a label on battle containing a specimen of blood provided by the accused were admitted.<sup>xviii</sup>

On top of the above, in *Derbby v Weldon*<sup>xix</sup>, accepting the data stored on a computer, it was held that:

The data stored on a computer in form of online database constitute a document for the purpose of obligation to discovery.

In supporting of the above court decisions, Stephen M. et al (2017)<sup>xx</sup> have written:

The interposition of computer to enable the retrieved of data stored in the online database did not disqualify the data from being considered a document. A similar case issue as to the meaning of a document in the context of stored data on a computer for discovery was also discussed in *Alliance and Leicester Building Society v Ghahreman* on motion to commit Naresh Chopra, to prison for contempt of the court.

Apparently, the courts admit many forms of documents as they emerge as corollary of technological development. All these shall continue to follow in the definition of documents as they emerge. In Canada, *R v McMullen*<sup>xxi</sup> is the case at point. It was held that:

A current account ledger card printed from computer was a document within the meaning of section 29 (2) of the Canada Evidence Act. That it is merely a new type of copy made from a new type of record. Though the technology changes, the underlying principles are the same.

In *Victor Chandler International v Customs and Excise Commission*<sup>xxii</sup>, the court expresses its observation as regards to document in the following words:

The word document is not constrained by physical nature that documents took in 1952, so we are entitled, and indeed bound, to consider the appropriate application of the

concept of circulation, etc, of a document in the light of current practice and technology.

In addition, in *Seccombe v. Attorney-General* (2002 (2) All SA 185 (Ck)), newspapers and periodicals were also considered as document<sup>xxiii</sup>, the court observes:

‘The word „document“ is a very wide term and includes everything that contains the written or pictorial proof of something. It does not matter of what material it is made’

In general, there is a celebrated court decision which broadly defines documents —which covers all forms of electronic information by the United States Court of Federal Claims.<sup>xxiv</sup> The court defines document as:

documents, data and tangible thing as ‘to be interpreted broadly to include writings; records; files; correspondence; reports; memoranda; calendars; diaries; minutes; electronic messages; voicemail; E-mail; telephone message records or logs; computer and network activity logs; hard drives; backup data; removable computer storage media such as tapes, disks and cards; printouts; document image files; Web pages; databases; spreadsheets; softwares; books; ledgers; journals; orders; invoices; bills; vouchers; checks; statements; worksheets; summaries; compilations; computations; charts; diagrams; graphic presentations; drawings; films; charts; digital or chemical process photographs; video; phonographic tape; or digital recordings or transcripts thereof; drafts; jottings; and notes. Information that serves to identify, locate or link such material, such as file inventories, file folders, indices and metadata, is also included in this definition’.

As whole, the definitions of document in many countries seem to be broad and cover both electronic and tangible things as demonstrated above. Their definitions are not exhaustive and thus open room for technical neutrality because of the use of the word ‘includes’ in their definitions. The use of the word ‘include’ in defining document symbolises flexibility and accommodation of new innovation concomitants. It is recommended therefore, that the legal

definition of document must be extended enough to accommodate even the coming technological development as they emerge.

## **TYPES OF DOCUMENT**

It is important to precisely disentangle document for they differ in application in respect of legal proceedings. There are mainly two types of document in law of evidence—public and private document. It is incumbent for the law to give succinctly the dichotomy between public and private documents. This removes controversies when they are required to be produced as evidence in the court.

### ***Public Document***

According to Salwan, S., et al<sup>xxv</sup>, defines public document as:

Public document is one prepared by a public servant in the discharge of his official duty. By the virtue of the fact that a document is kept in a public office does not lead to the inference that it is a public document.

Public documents as opposed to private documents are generally made by the government and are government documents made for the interest of the public and normally published by public authority.

According to Law Dictionary<sup>xxvi</sup> Public document means:

State paper, or other instrument of public importance or interest, issued or published by authority of congress or a state legislature. Also any document or record, evidencing or connected with the public business or the administration of public affairs, preserved in or issued by any department of the government.

Stephen, et al (2017)<sup>xxvii</sup> has mentioned the typology of the public documents as including document such as: birth and death registers, registers of baptisms and marriage, Acts of parliament, royal proclamations, Orders in Council, Statutory instruments and journal of the

either House of Parliament. Such mentioned documents may be proved in evidence by merely production of copies thereof, certified or seal where appropriate.

A public document is a document made by a public officer in the execution of a public duty, which is intended for public use and to which the public has a right of access. In South Africa official documents usually require the signature or seal of an official under sections 18 and 19(3) of the ECT Act. The law permits electronic notarisation, certification and sealing of data messages.

Section 18 articulates:

„18(1) Where a law requires a signature, statement or document to be notarised, acknowledged, verified or made under oath, that requirement is met if the advanced electronic signature of the person authorised to perform those acts is attached to, incorporated in or logically associated with the electronic signature or data message.

(2) Where a law requires or permits a person to provide a certified copy of a document and the document exists in electronic form that requirement is met if the person provides a print-out certified to be a true reproduction of the document or information.

(3) Where a law requires or permits a person to provide a certified copy of a document and the document exists in paper or other physical form, that requirement is met if an electronic copy of the document is certified to be a true copy thereof and the certification is confirmed by the use of an advanced electronic signature<sup>xxviii</sup>.”

Further section 19(3) provides:

“19(3) Where a seal is required by law to be affixed to a document and such law does not prescribe the method of form by which such document may be sealed by electronic means, the requirement is met if the document indicates that it is required to be under seal and it includes the advanced electronic signature of the person by whom it is required to be sealed”

The good thing with South African law and as quoted section demonstrates, is that, it has not been accompanied by the absence of procedural guidance as regards to their identifications, authenticity and admissibility to the court. The court is legislatively guided.

### ***Private Document***

Private Documents are documents made by individuals either private companies or institutions. Normally, they are not made for general public interest. In many jurisdictions like Tanzania, define private document as all documents other than public documents are private documents<sup>xxix</sup>.

As seemingly, in Tanzania, under Tanzania Evidence Act (TEA)<sup>xxx</sup> there is no precise definition of public and private documents. The Act gives examples of public document such as records of the acts of President of the United Republic, of official bodies, Tribunals and public officers, judicial etc<sup>xxxi</sup>.

The clear and a comprehensive definition is needed rather giving examples. This is primordial requirement when it comes the question like what constitutes a public or private document? The answer must be found in the legislation.

In South Africa,<sup>xxxii</sup> most documents are private documents. A private document is a document that is not a public document. Murdoch, W (2009)<sup>xxxiii</sup> suggests the conditions to be complied before the acceptance and relying upon the statement contained in document; He has aptly explained:

A party who wishes to rely upon statements contained in a document must ordinarily comply with the following four general rules namely:

- a) the contents of a document may be proved only by production;
- b) the original document must be produced;
- c) evidence is normally required to satisfy the court of a document's authenticity; and

- d) the document may have to be stamped in accordance with the provisions of the Stamp Duties Act (this requirement is not applicable to criminal proceedings).

However, the above rules can be used by the court to prove the fact not the truth in a document. It will be more important that these conditions be embedded in legislations to guide the court.

### **ADMISSIBILITY OF PUBLIC AND PRIVATE DOCUMENT**

The public documents are admitted as evidence without authenticity. It is for the supra reason there for, when it comes to the issue of their admissibility, the part intending to produce them, has to prove inter alia that the said documents are public documents and are genuine. The party has to demonstrate inter alia that the public document meets the following:

- i. they are printed by government printer; and
- ii. Bear the stamp, seal or signature of offices or department or private entity which has been printed under the supervision of the government.

However, this is not the case as for private documents. They need to be proved by showing inter alia that it was signed by the persons purporting to be the owner and if necessary attested.

In *Dublin Corporation v Bray Township Commissioners (1900)*<sup>xxxiv</sup>, public census document was admissible as public document. It was held that:

the census is a public paper made out by public officers under a sanction and responsibility which impel them to make it out accurately.

Lord Blackburn held<sup>xxxv</sup>:

A public document to mean a document that is made for the purpose of the public making use of it, and being able to refer to it. It is meant to be where there is a judicial or quasi-judicial duty to inquire...

In **Sturla V. Freccia**<sup>xxxvi</sup>, the court defines public document as:

One made for the purpose of the public making use of it and being able to refer to it, it is meant to be where there are judicial or quasi-judicial duties to inquire.

In the same opinion, in **Mercer V. Denne**<sup>xxxvii</sup> the court defines public document in the following words:

Where it was stated that a public document is one that the public are interested in and entitled to see it and should there be any mistake they are entitled to protest and in that sense it has become open to public challenge or dispute and thus has a certain amount of authority.

## **ADMISSIBILITY OF BUSINESS RECORDS**

Exclusionary rule do not apply to business records such as bankers' books and other documents from financial institution. It is presumed that they are accurate and thus need no further proof of their contents. Explaining on historical position of business record exceptions, Skogstad and Koppa (1958)<sup>xxxviii</sup> say:

The predecessor to the current Business Records Exception is the 'shop-book rule'. During the 17th Century, it was becoming common for businesses to keep written records of their transactions and at common law, an exception to the Hearsay Rule developed known as the 'shop-book rule'. This exception evolved in two branches, one as an exception for regular entries made in the course of business where the individual who made the entries was no longer available to appear as a witness. The second exception was where the entries were made by a party to the suit, notwithstanding they were available as a witness. In *Doe v Turford*, it was held that if books were regularly kept by a third person who was now deceased, the books could still be admitted into evidence provided the person's death and regularity of their book-keeping were established.



In South Africa business documents are admissible as an exception to the exclusionary rules of evidence in South Africa under Civil Proceedings Evidence Act of 1965. Section 29 articulates the general admissibility of bank documents. It provides:

The entries in ledgers, day-books, cash-books and other account books of any bank, shall be admissible as *prima facie* evidence of the matters, transactions and accounts therein recorded, on proof being given by affidavit in writing of a director, manager or officer of such bank, or by other evidence, that such ledgers, day-books, cash-books or other account books are or have been the ordinary books of such bank, and that the said entries have been made in the usual and ordinary course of business, and that such books are in or come immediately from the custody or control of such bank.

Before the admissibility of a bank book, there must be a proof of that:

- a) It was made in the usual and ordinary course of business;
- b) That such book is in or come immediately from the custody or control of such bank<sup>xxxix</sup>.

## CONCLUSION

Generally, the definition of document must be wide and board enough in order to accommodate even the future communication technological advancement. Just as the world is engulfing with increase use of communication technology in all aspects of life, so are the laws supposed to be contemporaneously amended to suit the environment. The *dichotomy* must be observed between public and private document. The application of these documents in the court should also be considered differently. It is recommended that the public document must continue to be admitted without further proof. It is further advised that admissibility of public document without further proof should also include even business document but subject to certain conditions such as that the document intended to be produced was made in the course of business, the device produced was working properly and operated by a personal with knowledge.

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[Asian Journal of Multidisciplinary Research & Review \(AJMRR\)](#)

ISSN 2582 8088

Volume 3 Issue 4 [July August 2022]

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## ENDNOTES

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- <sup>xv</sup> Section 12 of Canada Electronic Evidence, 1985.
- <sup>xvi</sup> (1908) 2KB 333(KBD) quoted in *The Foundations of Evidence in Electronic Form*, School of Advanced Study, University of London, Institute of Advanced Legal Studies by Stephen M. Et al (2017) (<https://www.jstor.org/stable/j.ctv512x65.10>, accessed on 29/01/2022).
- <sup>xvii</sup> (1945) 3 KB329, 332-3 quoted in *The Foundations of Evidence in Electronic Form*, School of Advanced Study, University of London, Institute of Advanced Legal Studies by Stephen M. Et al (2017) (<https://www.jstor.org/stable/j.ctv512x65.10>, accessed on 29/01/2022).
- <sup>xviii</sup> Stephen M. Et al (2017), *The Foundations of Evidence in Electronic Form*, School of Advanced Study, University of London, Institute of Advanced Legal Studies, (<https://www.jstor.org/stable/j.ctv512x65.10>, accessed on 29/01/2022).
- <sup>xix</sup>(1991) 2 All ER 901, WLR 652 (CA) quoted by Stephen M. Et al (2017), *The Foundations of Evidence in Electronic Form*, School of Advanced Study, University of London, Institute of Advanced Legal Studies, (<https://www.jstor.org/stable/j.ctv512x65.10>, accessed on 29/01/2022).
- <sup>xx</sup> Stephen M. Et al (2017), *The Foundations of Evidence in Electronic Form*, School of Advanced Study, University of London, Institute of Advanced Legal Studies, (<https://www.jstor.org/stable/j.ctv512x65.10>, accessed on 29/01/2022).
- <sup>xxi</sup>(42,CCC(2d),67 (<https://www.jstor.org/stable/j.ctv512x65.10>, accessed on 29/01/2022).
- <sup>xxii</sup> (2000) 2 All ER 315,329 (<https://www.jstor.org/stable/j.ctv512x65.10>, accessed on 29/01/2022).
- <sup>xxiii</sup> Section 247 of South Africa Criminal Procedure Act
- <sup>xxiv</sup> Pueblo of Laguna v US, 60 Fed. Cl. 133 (2004) quoted in *the Authentication of Electronic Evidence* by Stanfield (2016), PhD thesis, Queensland University of Technology ([https://eprints.qut.edu.au/93021/1/Allison\\_Stanford\\_Thesis.pdf](https://eprints.qut.edu.au/93021/1/Allison_Stanford_Thesis.pdf), accessed on 21/01/2022).
- <sup>xxv</sup> Salwan,S.,et al., (2010), *Academic's Legal Dictionary*, Academic (India) Publishers, New Delhi-110008, India.
- <sup>xxvi</sup> <https://thelawdictionary.org/public-document>.
- <sup>xxvii</sup> Stephen M. Et al (2017), *The Foundations of Evidence in Electronic Form*, School of Advanced Study, University of London, Institute of Advanced Legal Studies, (<https://www.jstor.org/stable/j.ctv512x65.10>, accessed on 05/01/2022).
- <sup>xxviii</sup> An advanced electronic signature is defined in section 1 of the ECT Act as an electronic signature which results from a process which has been accredited by the Accreditation Authority in terms of the Act.
- <sup>xxix</sup> section 84 of Tanzania Evidence Act, Cap. 6
- <sup>xxx</sup> Tanzania Evidence Act, Cap 6 (R.E. 2002).

<sup>xxx</sup> Section 83 of TEA.

<sup>xxxii</sup> Murdoch, Watney.(2009), *Admissibility of Electronic Evidence in Criminal Proceedings: An Outline of the South African Legal Position*, University of Johannesburg South Africa, Journal of Information, Law & Technology ([http://go.warwick.ac.uk/jilt/2009\\_1/watney](http://go.warwick.ac.uk/jilt/2009_1/watney), accessed on 11/01/2022).

<sup>xxxiii</sup> *ibid.*

<sup>xxxiv</sup> (19000) 2 IR 88 at 93, *ibid.*

<sup>xxxv</sup> (1926) Ch 284 at 318.

<sup>xxxvi</sup> 5 AC 541 (see <https://www.google.com/search?source=hp&ei=we5cxd22lymfumi4gsgf&q=task%3a+classification+of+documents+and+proof+of+public+documents&oq=task%3a+classification+of+documents+and+proof+of+public+documents&gs>).

<sup>xxxvii</sup> 19042 ch.538 (see *ibid.*),

<sup>xxxviii</sup> Skogstad and Koppa (1958) ‘*Admissibility of Business Entries*’ (1958) *Wisconsin Law Review* 24, 245 quoted in the Authentication of Electronic Evidence by Stanfield, R (2016) ([https://eprints.qut.edu.au/93021/1/Allison\\_Stanford\\_Thesis.pdf](https://eprints.qut.edu.au/93021/1/Allison_Stanford_Thesis.pdf), 11/01/2022).

<sup>xxxix</sup> For more examples refer, Tanzania (Law of Evidence Act, Cap.6) , Irish (Bankers’ Books Evidence Act 1879), Canada (the Canada Evidence Act) and Australia ( Australian Capital Territory Evidence Act 2011).



Asian Journal of  
Multidisciplinary  
Research & Review

**Asian Journal of Multidisciplinary Research & Review (AJMRR)**

ISSN 2582 8088

Volume 3 Issue 4 [July August 2022]

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