

# BILL

## No. 34 of 1999-2000

### An Act to amend *The Saskatchewan Evidence Act*

(Assented to \_\_\_\_\_, 2000)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

#### Short title

**1** This Act may be cited as *The Saskatchewan Evidence Amendment Act, 2000*.

#### R.S.S. 1978, c.S-16 amended

**2** *The Saskatchewan Evidence Act* is amended by adding the following after section 29:

#### “ELECTRONIC DOCUMENTS

##### “Interpretation and application

**29.1(1)** In this section and sections 29.2 to 29.6:

- (a) **‘data’** means representations, in any form, of information or concepts;
- (b) **‘electronic record’** means data that:
  - (i) is recorded or stored on any medium in or by a computer or other similar device; and
  - (ii) can be read or perceived by a person or a computer or other similar device;

and includes a display, printout or other output of that data, other than a printout mentioned in subsection 29.3(2);

(c) **‘electronic records system’** includes a computer system or other similar device by or in which an electronic record is recorded or stored and includes any procedures related to the recording or storing of an electronic record.

(2) This section and sections 29.2 to 29.6 do not modify any common law or statutory rule relating to the admissibility of records, except the rules relating to authentication and best evidence.

(3) A court may consider evidence admitted pursuant to sections 29.2 to 29.6 in applying any common law or statutory rule relating to the admissibility of records.

##### “Authentication of electronic record

**29.2** A person seeking to enter an electronic record must prove its authenticity by evidence capable of supporting a finding that the electronic record is what the person claims it to be.

**“Application of best evidence rule**

**29.3(1)** Subject to subsection (2), where the best evidence rule applies to an electronic record, the rule is satisfied on proof of the integrity of the electronic records system in or by which the electronic record was recorded or stored.

(2) An electronic record in the form of a printout that has been manifestly or consistently acted on, relied on or used is the record for the purposes of the best evidence rule.

**“Proving the integrity of an electronic records system**

**29.4** In the absence of evidence to the contrary, the integrity of the electronic records system in or by which an electronic record is recorded or stored is proven for the purposes of subsection 29.3(1):

(a) by evidence that supports a finding that at all material times the computer system or other similar device was operating properly or, if it was not, the fact of its not operating properly did not affect the integrity of the electronic record and there are no reasonable grounds to doubt the integrity of the electronic records system;

(b) if it is established that the electronic record was recorded or stored by a party to the proceedings who is adverse in interest to the party seeking to introduce it; or

(c) if it is established that the electronic record was recorded or stored in the usual and ordinary course of business by a person who is not a party to the proceedings and who did not record or store it under the control of the party seeking to introduce the record.

**“Standards**

**29.5** For the purposes of determining under any rule of law whether an electronic record is admissible, evidence may be presented respecting any standard, procedure, usage or practice on how electronic records are to be recorded or stored, having regard to the type of business or endeavour that used, recorded or stored the electronic record and the nature and purpose of the electronic record.

**“Affidavit may be used**

**29.6(1)** An affidavit may be used respecting the matters mentioned in subsection 29.3(2) and sections 29.4 and 29.5 given to the best of the deponent’s knowledge or belief.

(2) A deponent of an affidavit mentioned in subsection (1) that has been introduced in evidence may be cross-examined as of right by a party to the proceedings who is adverse in interest to the party who has introduced the affidavit or has caused the affidavit to be introduced.

(3) Any party to the proceedings may, with leave of the court, cross-examine a person mentioned in clause 29.4(c)”.

**Coming into force**

**3** This Act comes into force on proclamation.