



## LEGAL FRAME WORK AND ADMISSIBILITY OF ELECTRONIC EVIDENCE IN TANZANIA.

### **LEGAL FRAME WORK AND ADMISSIBILITY OF ELECTRONIC EVIDENCE IN TANZANIA.**

#### **INTRODUCTION.**

Electronic evidence is also known as digital evidence or computer evidence. It is basically an information, data or record that is stored, transmitted, or processed in electronic form and can be used as evidence in court proceedings. Electronic evidence may include emails, text messages, digital photos or videos, social media posts, electronic documents, and other digital files.

In Tanzania, the admissibility of electronic evidence may depend on the specific circumstances of each case thus, it is always advised It for individuals and organizations to ensure that their electronic evidence is properly preserved and presented in a manner that meets the legal requirements for admissibility in court.

#### **LAWS GOVERNING ELECTRONIC EVIDENCE.**

- **The Electronic Transactions Act [CAP. 442 R .E. 2022]**

The Act is a significant source of electronic evidence law in Tanzania that basically provides for the legal recognition of electronic transactions, the use of information and communication technologies in collection of evidence, admissibility of electronic evidence, to provide for the facilitation of use of secure electronic signatures; and to provide for other related matters around Tanzania.

Section 18 (4) of the Act provides that, for purposes of determining whether an electronic record is admissible, an evidence may be presented in respect of any set standard, procedure, usage or practice on how electronic records are to be recorded or stored, with regard to the type of business or endeavors that used, recorded or stored the electronic record and the nature and purpose of the electronic record. This means that the electronic record must be proven to be genuine, free from tampering or alteration, accessible and able to be presented in a form that can be understood by the court, and reliable and accurate.

Further, Section 21 of the Act provides for the admissibility of electronic signatures in court. An electronic signature is deemed to be legally binding and admissible in court if it



## LEGAL FRAME WORK AND ADMISSIBILITY OF ELECTRONIC EVIDENCE IN TANZANIA.

meets certain requirements, such as being uniquely linked to the signatory and identifying the signatory. It also provides for the recognition and legal effect of electronic documents, which have the same legal effect as paper documents, as long as they meet certain requirements, such as being accessible and capable of being reproduced

### • **The Evidence Act, [CAP. 6 R.E. 2022]**

Section 64A (3) of the Act defines an electronic evidence to mean any data or information stored in electronic form or electronic media or retrieved from a computer system, which can be presented as evidence. Further, Section 64A of the Act provides for the admissibility of electronic records in court proceedings, subject to certain conditions as provided under Section 18 of the Electronic Transactions Act to include such electronic evidence be presented in respect of any set standards, procedures, usage or practice on how electronic records are to be recorded or stored, with regard to the type of business or endeavors that used, recorded or stored the electronic record and the nature and purpose of the electronic record.

The Act provides also for the admissibility of electronic signatures in court and that it is admissible if it is affixed in a manner that can be reliably associated with the signatory and with the electronic record to which it relates. Generally, The Evidence Act codifies the common law rules of evidence such as relevance, admissibility, authentication, hearsay, the best evidence and corroboration in Tanzania in both civil and criminal cases.

### **THE ADMISSIBILITY OF ELECTRONIC EVIDENCE**

In Tanzania, electronic evidence is admissible in court proceedings under the Electronic Transactions Act and the Evidence Act. Both Acts provides the framework for electronic transactions, including the admissibility of electronic evidence in court.

However, to be admissible, electronic evidence must meet the following legal requirements:-

#### **1. Authenticity**

The electronic record must be proven to be genuine and free from tampering or alteration. This means that, the evidence is genuine or worthy of what it says it is. Thus, the electronic evidence will be worthy if the court will be satisfied that, the contents of the record have remained unchanged, the information in the record does in fact originate from its purported



## LEGAL FRAME WORK AND ADMISSIBILITY OF ELECTRONIC EVIDENCE IN TANZANIA.

source, whether human or machine, and extraneous information such as the apparent date of the record is accurate.

### 1. **Integrity**

The electronic record must be complete and unaltered.

- **Accessibility**

The electronic record must be accessible and able to be presented in a form that can be understood by the court.

### 1. **Reliability**

The electronic record must be reliable and accurate. This means that, an electronic evidence is believable or trustworthy. Generally, reliability is about accuracy of that evidence.

## **CONCLUSION.**

In Tanzania, For the purposes of determining whether an electronic record is admissible, an evidence may be presented in respect of any set standard, procedure, usage or practice on how electronic records are to be recorded or stored, with regard to the type of business or endeavors that used, recorded or stored the electronic record and the nature and purpose of the electronic record.