

LEGISLATIVE COUNCIL BRIEF

ELECTRONIC TRANSACTIONS ORDINANCE (AMENDMENT OF SCHEDULE 3) ORDER 2008

INTRODUCTION

On 24 November 2008, the Acting Secretary for Commerce and Economic Development (the Secretary) made the Electronic Transactions Ordinance (Amendment of Schedule 3) Order 2008 set out in Annex under section 50 of the Electronic Transactions Ordinance (ETO) (Cap. 553) to add a provision to Schedule 3 to the ETO.

JUSTIFICATIONS

Background

2. The ETO was enacted in January 2000. It came into full operation in April 2000. Subject to the requirements set out in sections 5 to 8 of the ETO, the ETO gives electronic records and electronic/digital signatures used in electronic transactions the same legal status as that of their paper-based counterparts.

3. Currently, under Regulation 49 of the Waterworks Regulations (Cap. 102 sub. leg. A), any notice, form or other document under the Waterworks Ordinance (Cap. 102) may be served in person, by post, by leaving it at the recipient's residence or place of business, or by posting it upon the premises to which it relates. To better serve the public, the Water Supplies Department plans to provide a new service whereby the public may choose to receive water bills electronically, or by post.

4. In order to provide the legal basis for serving documents via electronic means, Section 5A of the ETO and Schedule 3 to the ETO were

introduced by the Electronic Transactions (Amendment) Ordinance 2004 enacted in June 2004. Section 5A provides that if a rule of law under a legal provision specified in Schedule 3 to the ETO requires or permits a document to be served on a person by personal service or by post, the service of the document in the form of an electronic record to a designated information system, provided that the information contained in the electronic record is accessible for subsequent reference, satisfies the requirement or is permitted under the provision. Schedule 3 currently contains provisions of eight Ordinances. When Schedule 3 to the ETO was introduced, it was noted that the schedule would be expanded over time through an ongoing review process. Section 50 of the ETO provides that the Secretary may by an order published in the Gazette amend Schedule 3 to the ETO.

Proposal

5. We propose including in Schedule 3 to the ETO Regulation 49 of the Waterworks Regulations (Cap. 102 sub. leg. A) covering the serving of notices, forms or other documents relating to water supply matters. This will enable Water Supplies Department to serve water bills and other documents under the Waterworks Ordinance electronically.

THE ORDER

6. The Electronic Transactions Ordinance (Amendment of Schedule 3) Order 2008 at Annex sets out the specific statutory provision to be added to Schedule 3 to the ETO, as proposed in paragraph 5 above.

LEGISLATIVE TIMETABLE

7. The Electronic Transactions Ordinance (Amendment of Schedule 3) Order 2008 will be gazetted on 28 November 2008 and will be tabled before the Legislative Council on 3 December 2008. The target commencement date of the order falls on 18 February 2009.

IMPLICATIONS OF THE PROPOSAL

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. Allowing the service of certain documents in the form of electronic records does not give rise to any financial or staffing implications.

PUBLIC CONSULTATION

9. The proposed amendment will give the public a new option to receive electronic records relating to water supply matters, in addition to receiving them by mail. The proposal will provide more convenience to the public and is not controversial. Therefore, no dedicated public consultation is considered necessary.

PUBLICITY

10. We will publicise the provision added to Schedule 3 to the ETO through relevant Government websites. Water Supplies Department will also inform the public about the new option of receiving water bills electronically.

ENQUIRIES

11. Any enquiries on this brief should be addressed to Mrs. Do Pang Wai Yee, Assistant Government Chief Information Officer, at 2582 4579 or by facsimile at 2802 4549.

**Office of the Government Chief Information Officer
Commerce and Economic Development Bureau
November 2008**

**ELECTRONIC TRANSACTIONS ORDINANCE
(AMENDMENT OF SCHEDULE 3) ORDER 2008**

(Made by the Secretary for Commerce and Economic Development under section 50 of the Electronic Transactions Ordinance (Cap. 553))

1. Commencement

This Order shall come into operation on 18 February 2009.

2. Service of documents

Schedule 3 to the Electronic Transactions Ordinance (Cap. 553) is amended by adding –

“9. Waterworks Regulations (Cap. 102 sub. leg. A) Regulation 49(1)(a) and (b)”.



Acting Secretary for Commerce and
Economic Development

24 November 2008

Explanatory Note

This Order adds a provision to Schedule 3 to the Electronic Transactions Ordinance (Cap. 553). The effect is that a document permitted to be served on a person by personal service or post under that provision may be served in the form of an electronic record. The electronic record must be served to an information system designated by the person, and the information in it must be accessible so as to be usable for subsequent reference.