

Commencement Provision of the Electronic Transactions Bill

Introduction

This paper explains the proposed Committee Stage Amendments to the commencement provision in Clause 1 of the Electronic Transactions Bill.

Committee Stage Amendments

2. We propose to provide in Clause 1(2) of the Bill that Part I, sections 4 and 9, Part V (other than in relation to the matters referred to in Schedule 1), Part VI, sections 27B and 27D and Parts VIII, IX, XI and XII shall come into operation at the beginning of the day on which the Electronic Transactions Ordinance (when enacted) is published in the Gazette. This allows us to bring into immediate effect those provisions whose operation does not have to rely on subsidiary legislation so that the benefits they will bring, e.g. enhancement of certainty in the use of electronic records in contract formation, clarification on attribution of sending and receiving electronic records and the provision of certification services by the Hongkong Post, etc., can be realised as early as possible.

3. We also propose to provide in Clause 1(3) of the Bill that sections 3, 5, 6, 7, 8 and 10, Parts IV, V (in relation to the matters referred to in Schedule 1) and VII, section 27C and Schedules 1 and 2 shall come into operation on a day to be appointed by the Secretary for Information Technology and Broadcasting by notice in the Gazette. This deals with those provisions in the Bill whose operation has to be supported by subsidiary legislation, i.e. regulations to be made under Clause 44 and orders to be made under Clause 11 of the Bill. The concerned subsidiary legislation can only be made after the Electronic Transactions Ordinance (when enacted) is published in the Gazette.

4. The commencement of the provisions set out in Clause 1(3) of the Bill will tie in with the enactment of the concerned subsidiary legislation.