

## 《1999年仲裁（修訂）條例草案》

## 全體委員會審議階段

由律政司司長動議的修正案條次建議修正案

5 (a) 在建議的第 40E(2)(c)條中，在“仲裁員”之後加入“或關於仲裁程序”。

(b) 加入 —

“40EA. 認可內地仲裁當局名單的公布

(1) 律政司司長須不時將認可內地仲裁當局的名單在憲報公布。

(2) 根據第(1)款公布的名單並非附屬法例。”。

9 刪去該條而代以 —

“9. 政府須受約束

第 47 條現予修訂，廢除“III 及”。

**Annex V**

ARBITRATION (AMENDMENT) BILL 1999

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Justice

Clause

Amendment Proposed

5 (a) In the proposed section 40E(2)(c), by adding "or of the arbitration proceedings" after "arbitrator".

(b) By adding -

**"40EA. Publication of list of  
recognized Mainland  
arbitral authorities**

(1) The Secretary for Justice shall from time to time publish in the Gazette a list of the recognized Mainland arbitral authorities.

(2) A list published under subsection (1) is not subsidiary legislation."

9 By deleting the clause and substituting -

**"9. Government to be bound**

Section 47 is amended by repealing "Parts III and" and substituting "Part".

《1998年法律適應化修改（第7號）條例草案》

**全體委員會審議階段**

由規劃地政局局長動議的修正案

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附表1  
第1條

刪去“會同行政會議”。

附表2  
第1條

刪去“會同行政會議”。

附表5  
第1條

刪去“會同行政會議”。

**Annex VI**

ADAPTATION OF LAWS (NO. 7) BILL 1998

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Planning and Lands

<u>Clause</u>	<u>Amendment Proposed</u>
Schedule 1, section 1	By deleting "in Council".
Schedule 2, section 1	By deleting "in Council".
Schedule 5, section 1	By deleting "in Council".

## 《電子交易條例草案》

## 全體委員會審議階段

由資訊科技及廣播局局長動議的修正案條次建議修正案

1 刪去第(2)款而代以 —

“(2) 第 I 部、第 4 及 9 條、第 V 部（關乎附表 1 所提述的事項者除外）及第 VI 部、第 27C 及 27E 條、第 VIII 部、第 IX 部、第 XI 及第 XII 部自本條例於憲報刊登當日開始時起實施。

(3) 第 3、5、6、7、8 及 10 條、第 IV 部、第 V 部（關乎附表 1 所提述的事項者）及第 VII 部、第 27D 條及附表 1 及 2 自資訊科技及廣播局局長以憲報公告指定的日期起實施。”。

2(1) (a) 在“接受證書”的定義中 —

(i) 在(a)段中，刪去末處的“或”；

(ii) 加入 —

“(aa) 使用該證書；或”。

(b) 刪去“核證機關披露紀錄”的定義而代以 —

““核證機關披露紀錄”(certification authority disclosure record)就任何認可核證機關而言，指根據第 27C 條為該機關備存的紀錄；”。

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- (c) 在 —
- (i) “code of practice” 的定義中，刪去 “a” 而代以 “the” ；
  - (ii) “業務守則” 的定義中，刪去 “39” 而代以 “27E” 。
- (d) 在 “資訊系統” 的定義中，刪去所有 “自動” 。
- (e) 在 “issue” 的定義中，刪去 “of its” 而代以 “its” 。
- (f) 在 “認可證書” 的定義中 —
- (i) 在(b)段末處加入 “或” ；
  - (ii) 在(c)段中，在 “證書” 之前加入 “指明為認可證書的” 。
- (g) 在 “recognized certification authority” 的定義中，刪去 “or a” 而代以 “or the” 。
- (h) 在 “法律規則” 的定義中 —
- (i) 在(a)段中，刪去 “或” ；
  - (ii) 在(b)段中 —
    - (A) 在 “或” 之前加入 “規則” ；
    - (B) 在末處加入 “或” ；
  - (iii) 加入 —
    - “(c) 習慣法；” 。

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- (i) 在“穩當系統”的定義的(d)段中，刪去“程序”而代以“原則”。
- 3 (a) 在(a)段中，刪去在首次出現的“為”之後的所有字句而代以“，資訊須是書面形式或須以書面形式提供；或准許在該等事宜中或就該等作為，資訊可以是書面形式或以書面形式提供；”。
- (b) 在(d)段中，刪去“文件、紀錄或”。
- 4 刪去該條而代以 —
- “4. 條例約束政府
- 本條例對政府具約束力。”。
- 5 (a) 在第(1)款中 —
- (i) 刪去兩度出現的“出示或”；
- (ii) 刪去“該規則”而代以“該規定”。
- (b) 在第(2)款中，刪去在“許”之後的所有字句而代以“資訊可以是書面形式或以書面形式提供，如某電子紀錄包含的資訊是可查閱的以致可供日後參閱之用，則該紀錄即屬符合該規則。”。
- 6(1) 刪去兩度出現的“該規則”而代以“該規定”。

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- 7(1) (a) 刪去“該規則”而代以“該規定”。
- (b) 在(a)段中，刪去“作為電子紀錄”。
- 8(1) (a) 刪去“文件、紀錄或”。
- (b) 刪去“該規則”而代以“該規定”。
- (c) 在(a)段中，刪去在“是”之前的所有字句而代以 —  
“**(a)** 包含於電子紀錄內的該等資訊仍然”。
- (d) 在(b)段中，刪去兩度出現的“形式”而代以“規格”。
- 11 (a) 在第(1)款中，刪去所有“法律規則”而代以“條例”。
- (b) 在第(2)款中 —
- (i) 刪去首次出現的“法律規則”而代以“條例”；
- (ii) 在(a)段中，刪去所有“任何法律規則”而代以“該條例”。
- (c) 在第(3)款中，在“人”之後加入“或情況”。
- 12 (a) 刪去“法律規則”而代以“條例”。
- (b) 刪去“executed”而代以“made”。
- (c) 刪去兩度出現的“該規則”而代以“該條例”。



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新條文 加入 —

“14A. 第 5、6 及 7 條在甚麼情況下適用於屬非政府單位的人之間的交易

(1) 如某條例規定某人須向另一人提供資訊，而該兩人均既非政府單位亦非代表任何政府單位行事，則只有在該另一人同意有關資訊以電子紀錄形式提供的情況下，第 5(1)條方會適用。

(2) 如某條例准許某人向另一人提供資訊，而該兩人均既非政府單位亦非代表任何政府單位行事，則只有在該另一人同意有關資訊以電子紀錄形式提供的情況下，第 5(2)條方會適用。

(3) 如某條例規定須由某人（“前者”）簽署，而前者及將獲提供該簽署的人（“後者”）均既非政府單位亦非代表任何政府單位行事，則只有在後者同意前者以數碼簽署形式提供其簽署的情況下，第 6 條方會適用。

(4) 如某條例規定須將資訊以其原狀出示，而出示資訊的人及將獲出示資訊的人（“後者”）均既非政府單位亦非代表任何政府單位行事，則只有在後者同意資訊以電子紀錄形式出示的情況下，第 7(1)條方會適用。

(5) 在本條中 —

“同意” (consent) 包括可合理地從有關的人的行為推斷得出的同意；

“政府單位” (government entity) 指公職人員或公共機構。”。

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15 (a) 刪去第(1)款而代以 —

“ (1) 凡某條例中有規定資訊須是書面形式或須以書面形式提供的規定，或有准許資訊可以是書面形式或以書面形式提供的規定（“關乎書面形式的規定”），如第 5 條施行的效果，是因施行該條而致該條例或其相關的條例的任何其他規定（即不屬關乎書面形式的規定的規定）不能遵守，則第 5 條不適用於該關乎書面形式的規定。”。

(b) 在第(2)款中 —

(i) 在“如”之前加入“凡某條例中有規定須由任何人簽署的規定，”；

(ii) 刪去“某法律規則”而代以“該條例”；

(iii) 刪去“的法律規則”而代以“的條例”；

(iv) 刪去“該法律規則”而代以“該規定須由任何人簽署的規定”。

(c) 刪去第(3)款而代以 —

“ (3) 凡某條例中有規定資訊須以其原狀出示或保留的規定（“原狀規定”），如第 7 條施行的效果，是因施行該條而致該條例或其相關的條例的任何其他規定（即不屬原狀規定的規定）不能遵守，則第 7 條不適用於該原狀規定。”。

(d) 刪去第(4)款而代以 —

“ (4) 凡某條例中有規定須保留資訊的規定（“保留規定”），如第 8 條施行的效果，是因施行該條而致該條例或其相關的條例的任何其他規定（即不屬保留規定的規定）不能遵守，則第 8 條不適用於該保留規定。”。

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- 16 (a) 在第(1)款中，在“可”之後加入“全部或部分”。
- (b) 加入 —

“ (3) 為免生疑問，現述明本條並不影響所具效果為要約人可訂明傳達承約的任何普通法規則。 ” 。

- 18(2)(a) 刪去“attention”而代以“knowledge”。
- (ii)及(b)

- 19 (a) 在第(2)款中，刪去在“須就”之前的所有字句而代以 —

“ (2) 除第(4)款及第 20(2)條另有規定外，第(1)款所指的申請必須以訂明方式並以署長指明的格式提出，申請人並 ” 。

- (b) 在第(3)款中 —

- (i) 刪去(a)段而代以 —

“ (a) 根據第 27B 條所指明的有關詳情及文件；及 ” ；

- (ii) 刪去(b)(i)段而代以 —

“ (i) 載有對申請人是否有能力遵守本條例適用於認可核證機關的條文的評估，及是否有能力遵守業務守則的評估；及 ” 。

- (c) 在第(4)款中，刪去“署長如認為適當，”而代以“在第(5)款指明的情況下，署長”。

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(d) 加入 —

“ (5) 只在以下情況下署長方可免除第(4)款提述的規定 —

(a) 申請人是一個核證機關，並且是具有在香港以外某地方的可與認可核證機關相比擬的地位（“可相比擬地位”）的；並且

(b) 該地方的主管當局會基於一個認可核證機關是認可核證機關而給予該機關可相比擬地位。”。

20 (a) 加入 —

“(1A) 署長如根據第(1)(b)款拒絕申請，必須以書面向申請人提供拒絕的理由。”。

(b) 在第(3)款中 —

(i) 刪去(a)段而代以 —

“(a) 申請人是否具備適當財政條件，按本條例及業務守則作為認可核證機關運作；”；

(ii) 在(c)段中，在“及”之前加入“、保安安排”。

(c) 在第(4)款中 —

(i) 在首次出現的“Director”之後加入“shall”；

(ii) 刪去“，shall”而代以逗號。

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- 21 (a) 加入 —
- “(1A) 第(1)款所指的申請必須以訂明方式並以署長指明的格式提出，申請人並須向署長提供根據第 27B 條所指明的有關詳情及文件。”。
- (b) 加入 —
- “(5A) 署長如根據第(5)款拒絕申請，必須以書面向申請人提供拒絕的理由。”。
- (c) 在第(8)款中，刪去“(2)、(3)、(4)、(5)”而代以“(1A)、(2)、(3)、(4)、(5)、(5A)”。
- 22 (a) 刪去標題而代以“署長可撤銷認可”。
- (b) 在第(2)款中，刪去在“出”之後的所有字句而代以“意圖撤銷認可的通知，並在該通知中指明意圖撤銷的理由。”。
- (c) 刪去第(4)款而代以 —
- “(4) 如署長決定撤銷認可，他必須立刻以書面向有關核證機關發出該決定的通知，並在該通知中指明作出該決定的理由及日期。”。
- (d) 在第(6)款中，刪去由“在”之後至“之”之前的所有字句而代以“撤銷的決定作出”。
- (e) 刪去第(8)及(9)款。
- 23 (a) 在第(1)款中，刪去在“可”之後的所有字句而代以“暫時吊銷根據第 20 或 21 條批給或根據第 21 或 26 條續期的認可，為期不超過 14 天。”。

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- (b) 加入 —

“(1A) 如署長決定暫時吊銷認可，他必須立刻以書面向有關核證機關發出該決定的通知，並在該通知中指明作出該決定的理由及日期。”。

- (c) 在第(2)款中，刪去“就證書而暫時吊銷”而代以“暫時吊銷證書的”。

- (d) 刪去第(4)款而代以 —

“(2A) 除第(3)款另有規定外，暫時吊銷在暫時吊銷的決定作出之日後 7 天屆滿時生效。”。

- (e) 刪去第(6)及(7)款。

- 24 刪去(c)段而代以 —

“(c) 根據第 37 條提交的有關報告。”。

- 25 (a) 在第(1)款中，在“效”之後加入“，或根據第 20(5)(b)條指明的認可的有效期已屆滿”。

- (b) 在第(2)款中，刪去“recognized certificates”而代以“a recognized certificate”。

- (c) 刪去第(3)款。

- (d) 刪去第(5)款而代以 —

“(5) 撤銷或暫時吊銷核證機關的認可，並不影響在該項撤銷或暫時吊銷生效前，或在被暫時吊銷的認可恢復後，該機關所發出的認可證書的有效使用。

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(6) 撤銷或暫時吊銷證書的認可，並不影響在該項撤銷或暫時吊銷生效前，或在被暫時吊銷的認可恢復後，有關的證書的有效使用。

(7) 根據第 21(6)條所指明的證書的認可有效期屆滿，或認可證書的有效期屆滿，並不影響在該認可或該證書（視屬何情況而定）的有效期屆滿前，有關證書的有效使用。

(8) 根據第 20(5)(b)條所指明的核證機關的認可有效期屆滿，並不影響在該機關的認可有效期內，該機關所發出的認可證書的有效使用。”。

26 (a) 在第(1)款中，刪去在“，可”之後的所有字句而代以“向署長申請將認可續期。”。

(b) 加入 —

“(1A) 續期的申請必須於認可有效期屆滿之日前 30 天至 60 天的期間內作出。

(1B) 續期的申請必須以電子紀錄形式向署長發出，或由專人送交署長，或於署長的辦事處的通常辦公時間內留在該辦事處。”。

(c) 在第(2)款中 —

(i) 在“(4)”之前加入“(1A)、(1B)及”；

(ii) 刪去在“提供”之後的所有字句而代以“根據第 27B 條所指明的有關詳情及文件。”。

(d) 在第(4)款中，在“署”之前加入“在第 19(5)條指明的情況下，”。

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- (e) 刪去第(5)款。
- (f) 在第(6)款中，在“(3)”之後加入“及(5)”。
- 27 (a) 在第(1)款中 —
- (i) 在英文文本中，在(b)段的末處加入“or”；
- (ii) 刪去“該項決定的通知送達該機關之日的”而代以“有關決定作出之日起”。
- (b) 加入 —
- “(1A) 根據第(1)款提出的上訴，必須藉上訴人以電子紀錄形式向局長發出上訴的通知而展開，或藉由專人將該通知送交局長而展開，或藉將該通知於局長的辦事處的通常辦公時間內留在該辦事處而展開。
- (1B) 根據本條向局長提出上訴的核證機關，亦必須在切實可行範圍內盡快給予署長上訴的通知。”。
- (c) 在第(2)款中，在“appeal”之後加入“under subsection (1)”。
- (d) 加入 —
- “(3) 局長必須向上訴人發出對上訴的決定的通知，而該通知須指明作出該決定的理由，並須 —
- (a) 以電子紀錄形式向上訴人發出；或



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- (b) 以普通郵遞或掛號郵遞寄往上訴人的最後為人所知的地址。

(4) 凡在某個別個案中，以第(3)款所指明的方式發出通知並非合理地切實可行，如局長將該通知在根據第 27C 條為上訴人備存的核證機關披露紀錄內公布，則該通知須當作已發出。”。

新條文 在第 VII 部中，加入 —

**“27A. 署長如何發出本部所指的通知**

(1) 凡根據本部署長須向某核證機關發出通知或其他文件，該通知或文件如 —

- (a) 是以電子紀錄形式發給該機關的；或
- (b) 以普通郵遞或掛號郵遞寄往該機關的最後為人所知的地址，

即須當作已發出。

(2) 凡在某個別個案中，以第(1)款所指明的方式發出通知或文件並非合理地切實可行，如署長將該通知或文件在有關的核證機關披露紀錄內公布，則該通知或文件須當作已發出。

**27B. 署長藉憲報公告指明詳情及文件**

(1) 署長必須藉刊登於憲報的公告而指明根據第 19(3)(a)、21(1A)及(8)及 26(2)條所須提供的任何詳情及文件。

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(2) 根據第(1)款作出的公告並非附屬法例。”。

新條文 加入 —

“第 VIIA 部

核證機關披露紀錄及業務守則

27C. 署長須備存核證機關披露紀錄

(1) 署長必須為每一個認可核證機關備存聯機的及可供公眾查閱的紀錄。

(2) 署長除須在核證機關披露紀錄內公布根據本條例其他條文須在該紀錄提供的資訊外，並須在核證機關披露紀錄內公布關乎該機關的與本條例的施行有關的資訊。

27D. 署長須公告認可的撤銷、暫時吊銷及未續期等

(1) 凡 —

- (a) 署長根據第 22(4)條作出撤銷認可的決定；
- (b) 某項撤銷已根據第 22(6)或(7)條生效；
- (c) 署長根據第 23(1A)條作出暫時吊銷認可的決定；

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- (d) 某項暫時吊銷已根據第 23(2A)或(3)條生效；
- (e) 被暫時吊銷的認可已獲恢復；
- (f) 署長根據第 27(1B)條接獲上訴的通知；或
- (g) 署長知悉局長已確認、更改或推翻署長撤銷或暫時吊銷認可的決定，

署長必須立刻在有關的核證機關披露紀錄內作出公告。

(2) 凡某項認可的撤銷或暫時吊銷已生效，署長必須在切實可行範圍內，盡快將該項撤銷或暫時吊銷最少連續 3 天在行銷於香港的英文日報及中文日報各一份內公告。

(3) 如認可核證機關未有在根據第 26(1A)條提出續期申請的限期內申請續期，署長最遲須於認可的有效期屆滿之日前 21 天，將有效期的屆滿日期及該機關未有申請續期的事實 —

- (a) 最少連續 3 天在行銷於香港的英文日報及中文日報各一份內公告；及
- (b) 在為該機關備存的核證機關披露紀錄內公告。

## 27E. 署長可發出業務守則

署長可發出業務守則，指明執行認可核證機關的功能的標準及程序。”。

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建議修正案

- 29(1) (a) 刪去“透過”而代以“由”。
- (b) 在(a)段中，刪去“，或”而代以“及”。
- 30 (a) 在第(1)款中，刪去在“儲”之前的“認可”。
- (b) 在第(2)款中，刪去在首次出現的句號之後的所有字句。
- 32 刪去由“如”之後至“機”之前的所有字句而代以“某認可核證機關發出的認可證書已在儲存庫內公布，除非有相反證據證明，否則須推定該證書包含的資訊正確，但識別為未經該”。
- 34 刪去“證書公布所在的儲存庫及”。
- 36(2) (a) 在(b)段中，刪去“儲”之前的“認可”。
- (b) 在“某”之後加入“認可”。
- 37 刪去該條而代以 —

**“37. 認可核證機關須提交關於遵守  
本條例及業務守則的報告**

(1) 認可核證機關必須最少每 12 個月向署長提交報告一次，而該報告須載有對該機關在該報告所涵蓋的期間是否已遵守本條例中就認可核證機關適用的條文的評估，及在該期間是否已遵守業務守則的評估。

(2) 第(1)款所指的報告必須由署長認可為合資格擬備該等報告的人擬備，擬備費用由核證機關負擔。

條次建議修正案

(3) 署長必須在為有關核證機關備存的核證機關披露紀錄內，公布上述報告的日期及報告內的關鍵性資訊。

(4) 在第(1)款中，“所涵蓋的期間”(report period)就為某段期間(“有關期間”)提交的報告而言，指由 —

- (a) 根據第 20 條作出的認可或第 28 條開始實施時起；或
- (b) 根據該款提交的上一份報告所涵蓋的期間的最後一日的翌日起，

至有關期間的最後一日為止的期間，視乎情況所需而定。”。

新條文 在第 IX 部中，加入 —

**“38A. 認可核證機關須設置儲存庫**

(1) 認可核證機關必須設置或安排設置聯機的及可供公眾查閱的儲存庫。

(2) 署長必須於憲報刊登根據第(1)款設置的儲存庫的清單。”。

第 X 部 刪去該部。

41 (a) 在第(1)款中，刪去“其他物料。”而代以“物料，也不得允許或容受向他人披露該等紀錄、書刊、紀錄冊、登記冊、通訊、資訊、文件或物料。”。

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(b) 在第(2)款中 —

(i) 在(a)段中，刪去在“的功能”之後的所有字句而代以“而所需，或為本條例的目的執行或協助為本條例的目的執行功能而所需；”。

(ii) 在(b)段中，刪去在首次出現的“目的”之後的所有字句而代以分號。

(iii) 加入 —

“(ba) 為在香港提起刑事法律程序而遵守根據某法律規則作出的規定的目的；或”。

42 刪去“後果”。

43 刪去“或某組織”。

44 (a) 在(a)段中，刪去在“機關”之後的所有字句而代以“的方式、申請將證書認可的方式、申請將該等認可續期的方式以及認可的方式；”。

(b) 在(b)段中，刪去在首次出現的“可”之後的所有字句而代以“的申請、證書的認可的申請或該等認可的續期的申請訂明須繳付的費用；”。

(c) 在(c)段中，刪去在“式”之後的所有字句而代以分號。

45 在“藉”之後加入“憲報刊登的”。

條次建議修正案

46 刪去該條而代以 —

“46. 對公職人員的保護

(1) 政府及公職人員，均無須只因任何認可是根據第 VII 部批給、續期、撤銷、暫時吊銷或恢復而招致任何法律責任。

(2) 在不影響第(1)款的原則下，任何公職人員無須因他在執行或其本意是執行本條例第 VII 部以外的任何其他部分下的職能時真誠作出任何作為或沒有作出任何作為，而招致任何民事法律責任。

(3) 第(2)款所賦予的保護，並不以任何方式影響政府就有關公職人員在執行或其本意是執行有關職能時的作為或不作為而招致的法律責任（如有的話）。”。

附表1

- (a) 在標題中，刪去“及 8”而代以“、8 及 16”。
- (b) 在第 2 條中，在“託”之後加入“（歸復信託、默示信託及法律構定信託除外）”。
- (c) 在第 6 條中，刪去“約、轉易契、其他書面形式的”而代以“據、轉易契、其他書面形式的文件或”。
- (d) 在第 7 條中，刪去在“他”之後的所有字句而代以“關乎不動產或不動產權益的處置的合約，或任何其他達成該等處置的合約。”。
- (e) 刪去第 8 條而代以 —

“8. 《土地註冊條例》（第 128 章）第 2A 條提述的達成浮動押記的文件。”。

條次

建議修正案

(f) 刪去第 12 及 13 條而代以 —

“12. 法院或裁判官發出的手令。

13. 可流轉票據。”。



## Annex VII

## ELECTRONIC TRANSACTIONS BILL

## COMMITTEE STAGE

Amendments to be moved by the Secretary for  
Information Technology and BroadcastingClauseAmendment Proposed

1 By deleting subclause (2) and substituting -

"(2) Part I, sections 4 and 9, Part V (other than in relation to the matters referred to in Schedule 1) and Part VI, sections 27C and 27E and Parts VIII, IX, XI and XII shall come into operation at the beginning of the day on which this Ordinance is published in the Gazette.

(3) Sections 3, 5, 6, 7, 8 and 10, Part IV, Part V (in relation to the matters referred to in Schedule 1) and Part VII, section 27D 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."

2(1) (a) In the definition of "accept a certificate" -

(i) in paragraph (a) by deleting "or" at the end;

(ii) by adding -

"(aa) uses the certificate; or".

(b) By deleting the definition of "certification authority disclosure record" and substituting -

Clause

Amendment Proposed

"certification authority disclosure record" (核證機關披露紀錄), in relation to a recognized certification authority, means the record maintained under section 27C for that certification authority;"

- (c) In the definition of "code of practice" -
  - (i) by deleting "a" and substituting "the";
  - (ii) by deleting "39" and substituting "27E".
- (d) In the definition of "information system" by deleting "automatically" wherever it appears.
- (e) In the definition of "issue" by deleting "of its" and substituting "its".
- (f) In the definition of "recognized certificate" -
  - (i) in paragraph (b) by adding "or" at the end;
  - (ii) in paragraph (c) by adding "designated as a recognized certificate" after "certificate".
- (g) In the definition of "recognized certification authority" by deleting "or a" and substituting "or the".
- (h) In the definition of "rule of law" -
  - (i) in paragraph (a) by deleting "or";
  - (ii) in paragraph (b) -
    - (A) by adding "a rule of" before "equity";

<u>Clause</u>	<u>Amendment Proposed</u>
	(B) by adding "or" at the end;
	(iii) by adding - "(c) customary law;"
	(i) In the definition of "trustworthy system" in paragraph (d) by deleting "procedures" and substituting "principles".
3	(a) In paragraph (a) by deleting "to give or present information" and substituting "for information to be or given".  (b) In paragraph (d) by deleting "documents, records or".
4	By deleting the clause and substituting -  <b>"4. Ordinance to bind Government</b>  This Ordinance binds the Government."
5	(a) In subclause (1) -  (i) by deleting "in writing, given or presented" and substituting "or given";  (ii) by deleting "that rule of law" and substituting "the requirement".  (b) In subclause (2) by deleting everything from "given" where it first appears to "record" where it first appears and substituting "or given in writing, an electronic record satisfies that rule of law".

<u>Clause</u>	<u>Amendment Proposed</u>
6(1)	By deleting "that rule of law" and substituting "the requirement".
7(1)	(a) By deleting "that rule of law" and substituting "the requirement".  (b) In paragraph (a) by deleting "as an electronic record".
8(1)	(a) By deleting "documents, records or".  (b) By deleting "that rule of law" and substituting "the requirement".  (c) In paragraph (a) -  (i) by deleting "the information or";  (ii) by deleting "document or" and substituting "electronic".  (d) In paragraph (b) by deleting "form" where it twice appears and substituting "format".
11	(a) In subclause (1) by deleting "a rule of law" wherever it appears and substituting "an Ordinance".  (b) In subclause (2) -  (i) by deleting "any rule of law" where it first appears and substituting "an Ordinance";

<u>Clause</u>	<u>Amendment Proposed</u>
	(ii) in paragraph (a) -  (A) by deleting "any rule of law" and substituting "that Ordinance";  (B) by deleting "a rule of law" where it twice appears and substituting "that Ordinance".  (c) In subclause (3) by adding "or cases" after "persons".
12	(a) By deleting "any rule of law" and substituting "an Ordinance".  (b) By deleting "executed" and substituting "made".  (c) By deleting "the rule of law" and substituting "that Ordinance".  (d) By deleting "that rule of law" and substituting "that Ordinance".
New	By adding -  <b>"14A. When sections 5, 6 and 7 apply to transactions between persons who are not government entities</b>  (1) If an Ordinance requires information to be given by a person to another and neither person is or is acting on behalf of a government entity, section 5(1) applies only if the person to whom the information is to be given consents to it being given in the form of an electronic record.

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(2) If an Ordinance permits information to be given by a person to another and neither person is or is acting on behalf of a government entity, section 5(2) applies only if the person to whom the information is to be given consents to it being given in the form of an electronic record.

(3) If an Ordinance requires the signature of a person ("the signer") and neither the signer nor the person to whom the signature is to be given ("the second mentioned person") is or is acting on behalf of a government entity, section 6 applies only if the second mentioned person consents to the signer's digital signature being given.

(4) If an Ordinance requires information to be presented in its original form and neither the person presenting it nor the person to whom it is to be presented ("the second mentioned person") is or is acting on behalf of a government entity, section 7(1) applies only if the second mentioned person consents to it being presented in the form of an electronic record.

(5) In this section -

"consent" (同意) includes consent that can be reasonably inferred from the conduct of the person concerned;

"government entity" (政府單位) means a public officer or a public body."

15 (a) In subclause (1) -

(i) by deleting "a rule of law" and substituting "a requirement or permission in an Ordinance for information to be or given in writing

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- (ii) ("requirement for writing");  
by deleting "in that rule of law" and substituting "in that Ordinance";
- (iii) by deleting "related rule of law" and substituting "related Ordinance";
- (iv) by deleting "requirement or permission to give or present information in writing" and substituting "requirement for writing";
- (v) by deleting "to that rule of law" and substituting "to the requirement for writing".
- (b) In subclause (2) -
- (i) by deleting "a rule of law" and substituting "a requirement in an Ordinance for the signature of a person";
- (ii) by deleting "in that rule of law" and substituting "in that Ordinance";
- (iii) by deleting "related rule of law" and substituting "related Ordinance";
- (iv) by deleting "to that rule of law" and substituting "to the requirement for the signature of a person".
- (c) In subclause (3) -
- (i) by deleting "a rule of law" and substituting "a requirement in an Ordinance for information to be presented or retained in its original form ("requirement for original form")";

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- (ii) by deleting "in that rule of law" and substituting "in that Ordinance";
  - (iii) by deleting "related rule of law" and substituting "related Ordinance";
  - (iv) by deleting "information to be presented or retained in its";
  - (v) by deleting "to that rule of law" and substituting "to the requirement for original form".
- (d) In subclause (4) -
- (i) by deleting "a rule of law" and substituting "a requirement in an Ordinance for information to be retained ("requirement for retention)";
  - (ii) by deleting "in that rule of law" and substituting "in that Ordinance";
  - (iii) by deleting "related rule of law" and substituting "related Ordinance";
  - (iv) by deleting "documents, records or information to be retained" and substituting "retention";
  - (v) by deleting "to that rule of law" and substituting "to the requirement for retention".
- 16 (a) In subclause (1) by adding "in whole or in part" before "expressed".



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(b) By adding -

"(3) For the avoidance of doubt, it is stated that this section does not affect any rule of common law to the effect that the offeror may prescribe the method of communicating acceptance."

18(2)(a)(ii) By deleting "attention" and substituting "knowledge".  
and (b)

19 (a) In subclause (2) by deleting everything before "須就" and substituting -

"(2) 除第(4)款及第 20(2)條另有規定外，第(1)款所指的申請必須以訂明方式並以署長指明的格式提出，申請人並"

(b) In subclause (3) -

(i) by deleting paragraph (a) and substituting -

"(a) the relevant particulars and documents specified under section 27B; and";

(ii) in paragraph (b)(i) -

(A) by deleting "certifies that" and substituting "contains an assessment as to whether";

(B) by deleting "any" and substituting "the".

Clause

Amendment Proposed

(c) In subclause (4) by deleting "if the Director considers it appropriate to do so" and substituting "in the circumstances specified in subsection (5)".

(d) By adding -

"(5) The Director may waive the requirements referred to in subsection (4) only if -

(a) the applicant is a certification authority with a status in a place outside Hong Kong comparable to that of a recognized certification authority ("comparable status"); and

(b) the competent authority of that place accords to a recognized certification authority a comparable status on the basis of it being a recognized certification authority."

20

(a) By adding -

"(1A) The Director must give reasons in writing to the applicant for refusing an application under subsection (1)(b)."

(b) In subclause (3) -

(i) by deleting paragraph (a) and substituting -

"(a) whether the applicant has the appropriate financial status for operating as a recognized

ClauseAmendment Proposed

certification authority in accordance with this Ordinance and the code of practice;"

(ii) in paragraph (c) by deleting "and standard" and substituting ", security arrangements and standards".

(c) In subclause (4) -

(i) by adding "shall" after "Director" where it first appears;

(ii) by deleting ", shall" and substituting a comma.

21 (a) By adding -

"(1A) An applicant under subsection (1) must make the application in the prescribed manner and in a form specified by the Director and furnish to the Director the relevant particulars and documents specified under section 27B."

(b) By adding -

"(5A) The Director must give reasons in writing to the applicant for refusing an application under subsection (5)."

(c) In subclause (8) by deleting "(2), (3), (4), (5)" and substituting "(1A), (2), (3), (4), (5), (5A)".

22 (a) By deleting the heading and substituting "**Director may revoke recognition**".

Clause

Amendment Proposed

(b) In subclause (2) by deleting "notice in writing of the intention to do so and" and substituting "a notice of intention to revoke the recognition specifying".

(c) By deleting subclause (4) and substituting -

"(4) If the Director decides to revoke a recognition, the Director must immediately give the certification authority notice in writing of the decision specifying the reasons for the decision and the date on which the decision was made."

(d) In subclause (6) by deleting everything after "which" and substituting "the decision to revoke the recognition is made."

(e) By deleting subclauses (8) and (9).

23

(a) In subclause (1) by deleting everything after "days" and substituting a full stop.

(b) By adding -

"(1A) If the Director decides to suspend a recognition, the Director must immediately give the certification authority notice in writing of the decision specifying the reasons for the decision and the date on which the decision was made."

(c) In subclause (2) by deleting "就證書而暫時吊銷" and substituting "暫時吊銷證書的".

(d) By deleting subclause (4) and substituting -

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"(2A) Subject to subsection (3), a suspension takes effect on the expiry of 7 days from the date on which the decision to suspend the recognition is made."

(e) By deleting subclauses (6) and (7).

24 By deleting paragraph (c) and substituting -

"(c) the relevant report furnished under section 37."

25 (a) In subclause (1) by deleting "effect" and substituting "effect or the period of validity of a recognition specified under section 20(5)(b) has expired".

(b) In subclause (2) by deleting "recognized certificates" and substituting "a recognized certificate".

(c) By deleting subclause (3).

(d) By deleting subclause (5) and substituting -

"(5) The revocation or suspension of the recognition of a certification authority does not affect the valid use of a recognized certificate issued by that certification authority before the revocation or suspension took effect or after the reinstatement of the recognition.

(6) The revocation or suspension of the recognition of a certificate does not affect the valid use of the certificate concerned before the revocation or suspension took effect or after the reinstatement of the

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recognition.

(7) The expiry of the period of validity of the recognition of a certificate specified under section 21(6) or the expiry of the period of validity of a recognized certificate does not affect the valid use of the certificate concerned before the expiry of the period of validity of the recognition or the certificate, as the case may be.

(8) The expiry of the period of validity of the recognition of a certification authority specified under section 20(5)(b) does not affect the valid use of a recognized certificate issued by that certification authority during the period of validity of its recognition."

26

(a) In subclause (1) -

(i) by adding "to the Director" after "apply";

(ii) by deleting everything after "recognition" where it first appears and substituting a full stop.

(b) By adding -

"(1A) An application for renewal must be made at least 30 days before but not earlier than 60 days before the expiry of the period of validity of the recognition.

(1B) An application for renewal must be sent to the Director as an electronic record or delivered by hand to the Director or left at the office of the Director during the ordinary business hours of that office."

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- (c) In subclause (2) -
- (i) by deleting "subsection (4)" and substituting "subsections (1A), (1B) and (4)";
  - (ii) by deleting "prescribed particulars and documents, if any" and substituting "relevant particulars and documents specified under section 27B".
- (d) In subclause (4) by adding ", in the circumstances specified in section 19(5)," after "may" where it first appears.
- (e) By deleting subclause (5).
- (f) In subclause (6) by adding "and (5)" after "20(3)".

27

- (a) In subclause (1) -
- (i) in paragraph (b) by adding "or" at the end;
  - (ii) by deleting everything after "days" and substituting "from the date on which the relevant decision is made."

- (b) By adding -

"(1A) An appeal under subsection (1) must be commenced by sending a notice of appeal to the Secretary as an electronic record or delivering the notice by hand to the Secretary or leaving the notice at the office of the Secretary during the ordinary business hours of that office.

Clause

Amendment Proposed

- (1B) A certification authority who appeals to the Secretary under this section must also give notice of the appeal to the Director as soon as practicable."
- (c) In subclause (2) by adding "under subsection (1)" after "appeal".

- (d) By adding -

"(3) The Secretary must give the appellant notice of the decision on appeal, together with reasons

-

- (a) by sending it to the appellant as an electronic record; or
- (b) by sending it by post or registered post to the last known address of the appellant.

(4) If in a particular case it is not reasonably practicable to give the notice of the decision on appeal by either of the means specified in subsection (3), the notice is taken to have been given if the Secretary publishes it in the certification authority disclosure record maintained under section 27C for the appellant."

New

By adding in Part VII -

**"27A. How Director may give notices under this Part**

(1) A notice or other document the Director is required to give to a certification authority under this Part is



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taken to have been given if it is -

- (a) sent to the certification authority as an electronic record; or
- (b) sent by post or registered post to the last known address of the certification authority.

(2) If in a particular case it is not reasonably practicable to give a notice or other document under this Part by either of the means specified in subsection (1), the notice or document is taken to have been given if the Director publishes it in the relevant certification authority disclosure record.

**27B. Director to specify particulars and documents by notice in the Gazette**

(1) The Director must specify by notice published in the Gazette any particulars and documents to be furnished under sections 19(3)(a), 21(1A) and (8) and 26(2).

(2) A notice under subsection (1) is not subsidiary legislation."

New

By adding -

"PART VIIA

CERTIFICATION AUTHORITY DISCLOSURE  
RECORDS AND CODE OF PRACTICE

**27C. Director to maintain certification**

Clause

Amendment Proposed

**authority disclosure record**

(1) The Director must maintain for each recognized certification authority an on-line and publicly accessible record.

(2) The Director must publish in the certification authority disclosure record information regarding that certification authority relevant for the purposes of this Ordinance (in addition to the information required to be given in it under other provisions of this Ordinance).

**27D. Director to notify revocations, suspensions and non-renewals of recognition, etc.**

(1) The Director must give notice in the relevant certification authority disclosure record, immediately -

- (a) when the Director makes a decision to revoke a recognition under section 22(4);
- (b) when a revocation has taken effect under section 22(6) or (7);
- (c) when the Director makes a decision to suspend a recognition under section 23(1A);
- (d) when a suspension has taken effect under section 23(2A) or (3);
- (e) when the recognition of a suspended

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recognition is reinstated;

- (f) when the Director receives a notice of appeal under section 27(1B); or
- (g) on becoming aware that the Secretary has confirmed, varied or reversed the decision of the Director to revoke or suspend a recognition.

(2) Where the revocation or suspension of a recognition has taken effect, the Director must, as soon as practicable, give notice of the revocation or suspension for at least 3 consecutive days in one English language daily newspaper and one Chinese language daily newspaper in circulation in Hong Kong.

(3) If a recognized certification authority does not apply for renewal before the end of the period during which an application for renewal can be made under section 26(1A), the Director must, at least 21 days before the expiry of the period of validity of the recognition, give notice -

- (a) for at least 3 consecutive days in one English language daily newspaper and one Chinese language daily newspaper in circulation in Hong Kong; and
- (b) in the certification authority disclosure record maintained for the certification authority,

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of the date of the expiry of the validity and that the certification authority has not applied for renewal.

**27E. Director may issue code of practice**

The Director may issue a code of practice specifying standards and procedures for carrying out the functions of recognized certification authorities."

- 29(1) (a) By deleting "through" and substituting "by".
- (b) In paragraph (a) by deleting "or" where it first appears and substituting "and".
- 30 (a) In subclause (1) by deleting "recognized repository" and substituting "repository".
- (b) In subclause (2) by deleting everything after "it" where it first appears and substituting a full stop.
- 32 By deleting "recognized repository" and substituting "repository".
- 34 By deleting "to the repository in which the certificate is published and".
- 36(2) (a) In paragraph (b) by deleting "recognized repository" and substituting "repository".

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- (b) By adding "認可" after "某".

37

By deleting the clause and substituting -

**"37. Recognized certification authority  
to furnish report on compliance  
with Ordinance and code of practice**

(1) At least once in every 12 months, a recognized certification authority must furnish to the Director a report containing an assessment as to whether the recognized certification authority has complied with the provisions of this Ordinance applicable to a recognized certification authority and the code of practice during the report period.

(2) A report under subsection (1) must be prepared, at the expense of the certification authority, by a person approved by the Director as being qualified to make such a report.

(3) The Director must publish in the certification authority disclosure record for the certification authority the date of the report and the material information in the report.

(4) In subsection (1) "report period" (所涵蓋的期間), in relation to a report ("current report"), means the period beginning on -

- (a) the date on which recognition is granted under section 20 or section 28 comes into operation; or

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	<p>(b) the day following the last day of the period for which the last report under that subsection was furnished,</p> <p>as the case may require, and ending on the last day of the period for which the current report is furnished."</p>
New	<p>By adding in Part IX -</p> <p><b>"38A. Recognized certification authority to maintain repository</b></p> <p>(1) A recognized certification authority must maintain or cause to be maintained an on-line and publicly accessible repository.</p> <p>(2) The Director must publish in the Gazette a list of the repositories maintained under subsection (1)."</p>
Part X	<p>By deleting the Part.</p>
41	<p>(a) In subclause (1) by adding "or permit or suffer to be disclosed" after "disclose".</p> <p>(b) In subclause (2) -</p> <p>(i) in paragraph (a) by deleting "for the purposes of" where it first appears and substituting "which is necessary for";</p> <p>(ii) in paragraph (b) by deleting everything after "Hong Kong" and substituting a semicolon;</p> <p>(iii) by adding -</p>

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	"(ba) for the purpose of complying with a requirement made under a rule of law with a view to instituting a criminal proceeding in Hong Kong; or".
42	By deleting "後果".
43	By deleting "or an organization".
44	(a) In paragraph (a) -  (i) by adding "or for recognition or renewal of recognition of certificates" after "authority";  (ii) by deleting ", the particulars and documents to be supplied by an applicant".  (b) In paragraph (b) by deleting "respect of" and substituting "respect of applications for the".  (c) In paragraph (c) by deleting everything after "statements" and substituting a semicolon.
45	By adding "published in the Gazette" after "order".
46	By deleting the clause and substituting -  <b>"46. Protection of public officers</b>  (1) No liability is incurred by the Government or a public officer by reason only of the fact that a recognition is

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granted, renewed, revoked, suspended or reinstated under Part VII.

(2) Without prejudice to subsection (1), no civil liability is incurred by a public officer in respect of anything done or omitted to be done by the public officer in good faith in the performance or purported performance of any function under a Part other than Part VII.

(3) The protection conferred under subsection (2) does not in any way affect the liability, if any, of the Government for the act or omission of the public officer in the performance or purported performance of the relevant function."

- Schedule 1 (a) In the heading by deleting "AND 8" and substituting ", 8 AND 16".
- (b) In section 2 by adding "(other than resulting, implied or constructive trusts)" after "trust".
- (c) In section 6 by deleting "約、轉易契、其他書面形式的" and substituting "據、轉易契、其他書面形式的文件或".
- (d) In section 7 by deleting everything after "他" and substituting "關乎不動產或不動產權益的處置的合約，或任何其他達成該等處置的合約。".
- (e) By deleting section 8 and substituting -
- "8. A document effecting a floating charge referred to in section 2A of the Land Registration Ordinance (Cap. 128).".
- (f) By deleting sections 12 and 13 and substituting -



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"12. A warrant issued by a court or a magistrate.

13. Negotiable instruments."

附件 VIII

《1999年法律適應化修改（第30號）條例草案》

全體委員會審議階段

由民政事務局局長動議的修正案

條次

建議修正案

附表5 加入 —  
第3(c)條

“(ia) 在第(2)(c)節中，廢除“立法局”而代以“立法會”；”。

附表12 在“基督教”之後加入“會”。  
標題及  
第1條

**Annex VIII**

## ADAPTATION OF LAWS (NO. 30) BILL 1999

**COMMITTEE STAGE**Amendments to be moved by the Secretary for Home AffairsClauseAmendment Proposed

Schedule 5, By adding -  
section 3(c)

"(ia) in subparagraph (2)(c), by repealing "立法局" and substituting "立法會";".

Schedule 12, By adding "會" after "基督教".  
heading and  
section 1