

**立法會**  
***Legislative Council***

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**Bills Committee on  
Interception of Communications and Surveillance Bill**

**Provisions in local legislation relevant to  
clause-by-clause examination of the Bill**

**Appendix I** – Section 23 of the Interpretation and General Clauses Ordinance (Cap. 1)

**Appendix II** – Section 54 of the Interpretation and General Clauses Ordinance (Cap. 1)

**Appendix III** – Section 2(2) of the Post Office Ordinance (Cap. 98)

**Appendix IV** – Section 2(1) of the Telecommunications Ordinance (Cap. 106)

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Council Business Division 2  
Legislative Council Secretariat  
26 May 2006



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Chapter:	1	Title:	INTERPRETATION AND GENERAL CLAUSES ORDINANCE	Gazette Number:	
Section:	23	Heading:	<b>Effect of repeal generally</b>	Version Date:	30/06/1997

Where an Ordinance repeals in whole or in part any other Ordinance, the repeal shall not-

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of any Ordinance so repealed or anything duly done or suffered under any Ordinance so repealed;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any Ordinance so repealed;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any Ordinance so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Ordinance had not been passed.

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Chapter: 1 Title: INTERPRETATION AND GENERAL CLAUSES Gazette Number:  
ORDINANCE  
Section: 54 Heading: **References to public officer** Version Date: 30/06/1997

### PART VIII

### PUBLIC OFFICERS AND PUBLIC CONTRACTS

In any Ordinance, instrument, warrant or process of any kind, any reference to a public officer, or to a person holding a public office by a term designating his office, shall include a reference to any person for the time being lawfully discharging the functions of that office, or any part of such functions, and any person appointed to act in or perform the duties of such office, or any part of such duties, for the time being.

(Amended L.N. 54 of 1989)

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Chapter:	98	Title:	POST OFFICE ORDINANCE	Gazette Number:	23 of 1998 s. 2
Section:	2	Heading:	<b>Interpretation</b>	Version Date:	01/07/1997

Remarks:

Amendments retroactively made - see 23 of 1998 s. 2

(2) For the purposes of this Ordinance-

- (a) a postal article shall be deemed to be in course of transmission by post from the time of its being duly delivered to a post office to the time of its being delivered to the addressee or its being returned to the sender or otherwise disposed of under the provisions of this Ordinance;
- (b) the placing of a postal article in any receiving box for the deposit of postal articles or the delivery of an article to an officer of the post office in the course of his duties shall be deemed to be delivery to a post office; and
- (c) the following shall be deemed to be delivery of a postal packet to the addressee-
  - (i) delivery according to the usual manner of delivering postal packets to the addressee; or
  - (ii) delivery at the house or office of the addressee; or
  - (iii) delivery to the addressee or to his servant or agent or other person having authority to receive such packet; or
  - (iv) when the addressee is a guest and is resident at an hotel, delivery to the proprietor or manager thereof or to his agent. [cf. 1908 c. 48 s. 90 U.K.]

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Chapter:	106	Title:	TELECOMMUNICATIONS Ordinance	Gazette Number:	L.N. 248 of 2003
Section:	2	Heading:	<b>Interpretation</b>	Version Date:	08/01/2004

(1) In this Ordinance, unless the context otherwise requires-

"air transshipment cargo" (航空轉運貨物) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap 60); (Added 33 of 2003 s. 3)

"air transit cargo" (航空過境貨物) means any article in transit that is both imported and consigned for export in an aircraft; (Added 33 of 2003 s. 3)

"article in transit" (過境物品) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap 60); (Added 33 of 2003 s. 3)

"assign" (指配) includes specify;

"associated corporation" (相聯法團), in relation to a licensee, means-

- (a) a corporation over which the licensee has control;
- (b) if the licensee is a corporation-
  - (i) a corporation which has control over the licensee; or
  - (ii) a corporation which is under the same control as is the licensee;

"associated person" (相聯人士) includes-

- (a) where the licensee is a natural person-
  - (i) a relative of the licensee;
  - (ii) a partner of the licensee and a relative of that partner;
  - (iii) a partnership in which the licensee is a partner;
  - (iv) a corporation controlled by the licensee, by a partner of the licensee or by a partnership in which the licensee is a partner;
  - (v) a director or principal officer of a corporation referred to in subparagraph (iv);
- (b) where the licensee is a corporation-
  - (i) an associated corporation;
  - (ii) a person who controls the corporation and where the person is a natural person, a relative of the person;
  - (iii) a partner of a person who controls the corporation and, where the partner is a natural person, a relative of the person;
  - (iv) a director or principal officer of the corporation or an associated

- corporation and a relative of the director or principal officer;
- (v) a partner of the corporation and, where the partner is a natural person, a relative of the partner;
- (c) where the licensee is a partnership-
  - (i) a partner of the partnership and, where the partner is a natural person, a relative of the partner;
  - (ii) a corporation controlled by the partnership, a partner in the partnership or where a partner is a natural person, a relative of the partner;
  - (iii) a corporation of which a partner is a director or principal officer;
  - (iv) a director or principal officer of a corporation referred to in subparagraph (iii);

"Authority" (局長) means the Telecommunications Authority appointed under section 5;

"basic service" (基本服務) means-

- (a) a public switched telephone service including the service connection, continued provision of connectivity, provision of a dedicated telephone number, an appropriate directory listing (except where the customer otherwise directs), a standard telephone handset without switching capacity (except where the customer elects to provide the handset), standard billing and collection services and relevant ancillary services and facilities necessarily utilized by the licensee;
- (b) a reasonable number of public payphones including payphones located within publicly or privately owned facilities to which the public have access (including intermittent access);
- (c) a reasonable number of public payphones, designed for ease of effective use by the hearing impaired;
- (d) a reasonable number of public payphones, designed for access by the physically disabled, including but not limited to those persons using wheelchairs;
- (e) operator provided directory enquiries, fault reporting, service difficulty and connection services;
- (f) a tropical cyclone warning service;
- (g) a thunderstorm and heavy rain warning service;
- (h) a flood warning service;
- (i) access to a number or numbers for emergency services; and
- (j) such other service, as the Authority may include, under regulations made under section 37;

"cargo transshipment area of Hong Kong International Airport" (機場貨物轉運區) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap 60); (Added 33 of 2003 s. 3)

"carrier licence" (傳送者牌照) means a licence issued for the establishment or maintenance of a telecommunications network for carrying communications to or from the public between fixed locations, between moving locations or between fixed locations and moving locations, within Hong Kong, or between Hong Kong and places outside Hong Kong, on a point-to-point, point-to-multipoint or broadcasting basis, such locations within Hong Kong being separated by unleased Government land, but does not include the licences listed in Schedule 1; (Amended 30 of 2003 s. 2)

"carrier licensee" (傳送者牌照持牌人) means the holder of a carrier licence;

"class licence" (類別牌照) means a licence gazetted by the Authority under section 7B;

"communication" (通訊) includes any communication-

- (a) whether between persons and persons, things and things or persons and things; and
- (b) whether in the form of speech, music or other sounds; or text; or visual images

whether or not animated; or signals in any other form or combination of forms;

"control" (控制), in relation to an associated corporation, means having-

- (a) a beneficial interest in or control over the exercise of 15% or more of the voting power at a general meeting of the corporation; or
- (b) control over the composition of 15% or more of the directors of the board of the corporation;

"customer equipment" (顧客設備) means equipment acquired by a customer of a carrier licensee intended to be connected to the network of that licensee;

"dominant position" (優勢) means dominant position construed in accordance with the provisions of section 7L and the words "dominance" and "dominant" shall also be construed accordingly;

"exclusive licence" (專利牌照) means any licence issued on an exclusive basis for operation or provision of telecommunications networks, systems, installations or services;

"external services" (對外服務) means telecommunications services between-

- (a) Hong Kong and one or more places outside Hong Kong; or
- (b) two or more places outside Hong Kong where the services are routed through Hong Kong;

"fixed carrier licence" (固定傳送者牌照) means a carrier licence issued for communication between fixed locations;

"fixed carrier licensee" (固定傳送者牌照持牌人) means the holder of a fixed carrier licence;

"harmful interference" (有害干擾) means interference which endangers the safety of life or property or seriously degrades, obstructs, or repeatedly interrupts a telecommunications service lawfully carried on within or outside Hong Kong;

"interconnection agreement" (互連協議) means an agreement of a type mentioned in section 36A whether made by mutual agreement or pursuant to a determination under that section;

"interference" (干擾) means the effect of unwanted energy due to any, or a combination of, emission, radiation or induction upon reception in a telecommunications network, system or installation manifested by any performance degradation, misinterpretation or loss of information which could be extracted from that telecommunications network, system or installation in the absence of such unwanted energy;

"issue" (發出) includes grant;

"licensee" (持牌人)-

- (a) means the holder of a licence under this Ordinance;
- (b) includes the holder of a licence (other than a programme service licence)-
  - (i) granted under the Ordinance repealed by section 44(1) of the Broadcasting Ordinance (Cap 562);
  - (ii) in force immediately before that repeal; and
  - (iii) deemed to be a licence granted under this Ordinance by virtue of Schedule 8 to the Broadcasting Ordinance (Cap 562); (Replaced 48 of 2000 s. 44)

"message" (訊息) means any communication sent or received by telecommunications or given to a telecommunications officer to be sent by telecommunications or to be delivered;

"network" (網絡) means a telecommunications network;

"number portability" (號碼可攜性) means the ability for a customer of a telecommunications service to retain the number or code assigned to him when he changes the location of use or the provider of that service;

"numbering plan" (號碼計劃) means the Hong Kong telecommunications numbering plan which sets out the plan of numbers and codes used or designed for use for or in connection with the establishment, operation and maintenance of any means of telecommunications under-

- (a) a licence; or
- (b) an order made by the Chief Executive in Council under section 39;

"payphone" (收費電話機) means a telephone connected to a public telecommunications system which cannot be used to make a call (other than specified free calls) unless payment can be collected, or authorized, at the time a call is made;

"public place" (公眾地方) means a place to which the public or a section of the public may or are permitted to have access from time to time, whether by payment or not, but does not include a vessel, aircraft, vehicle or other means of transport;

"public telecommunications service" (公共電訊服務) means a telecommunications service which is offered for use to the general public;

"radiated interference" (輻射干擾) means any interference transmitted other than through a guided medium;

"radio spectrum" (無線電頻譜) means the range of frequencies within which radiocommunications are capable of being carried out;

"radio transmitter" (無線電發射器) means any radiocommunications apparatus designed or intended to transmit or emit radio waves;

"radio waves" (無線電波) means electromagnetic waves of frequency lower than 3000 GHz propagated in space without an artificial guide;

"radiocommunications" (無線電通訊) means telecommunications by means of radio waves;

"radiocommunications installation" (無線電通訊裝置) means a radio transmitter, receiver, aerial, support structure, ancillary equipment or apparatus used or intended for use in connection with radiocommunications;

"radiocommunications transmitting apparatus" (無線電通訊發送器具) means any apparatus or any component part of any apparatus for transmission by radio waves; (Added 33 of 2003 s. 3)

"relative" (親屬) means the spouse, parent, child, brother or sister of the relevant person (whether of full blood or half-blood or by affinity);

"Secretary" (政策局局長) means the Secretary of a policy bureau in the Government Secretariat appointed by the Chief Executive for the purposes of the administration of this Ordinance;

"sound broadcast receiving apparatus" (聲音廣播接收器具) means an apparatus which is capable of receiving sound only, transmitted by means of radiocommunications or by wire for reception by the general public;

"space object" (空間物體) has the meaning assigned to it in section 2 of the Outer Space Ordinance (Cap 523);

"telecommunications" (電訊) means any transmission, emission or reception of communication by means of guided or unguided electromagnetic energy or both, other than any transmission or emission intended to be received or perceived directly by the human eye;

"telecommunications industry" (電訊業) means the industry comprising the persons who provide or supply telecommunications networks, systems, installations, customer equipment or services;

"telecommunications installation" (電訊裝置) means apparatus or equipment maintained for or in connection with a telecommunications network, telecommunications system or telecommunications service;

"telecommunications line" (電訊線路) means any wire, cable, duct, optical fibre, filament, line, pipe, pole, post, tube, conduit, support structure, ancillary equipment or apparatus or other physical medium used or intended for use as a continuous artificial guide for or in connection with telecommunications;

"telecommunications market" (電訊市場) means any market for the provision or acquisition of



telecommunications networks, telecommunications systems, telecommunications installations, or customer equipment or services;

"telecommunications network" (電訊網絡) means a system, or series of systems, for carrying communications by means of guided or unguided electromagnetic energy or both;

"telecommunications officer" (電訊人員) means any person employed in connection with a telecommunications service;

"telecommunications service" (電訊服務) means a service for the carrying of communication by means of guided or unguided electromagnetic energy or both;

"telecommunications system" (電訊系統) means any telecommunications installation, or series of installations, for the carrying of communication by means of guided or unguided electromagnetic energy or both;

"transshipment cargo" (轉運貨物) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap 60); (Added 33 of 2003 s. 3)

"universal service obligation" (全面服務責任) means the provision of a good, efficient and continuous basic service by a carrier licensee subject to a universal service obligation to all persons within the areas of Hong Kong covered by that obligation;

"vehicle" (車輛) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap 60); (Added 33 of 2003 s. 3)

"vessel" (船隻) has the same meaning as defined in the Shipping and Port Control Ordinance (Cap 313).

(Replaced 36 of 2000 s. 2)

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Chapter:	228	Title:	SUMMARY OFFENCES ORDINANCE	Gazette Number: L.N. 193 of 2000
Section:	2	Heading:	<b>Interpretation</b>	Version Date: 26/05/2000

(1) In this Ordinance, unless the context otherwise requires-

"air gun" (氣槍) includes any gun, rifle or pistol which uses a compressed gas or compressed gases as a propellant and from which any shot, bullet or missile can be discharged with a muzzle energy not greater than 2 joules; (Added 14 of 2000 s. 30)

"depositing" (棄置) in relation to litter, includes casting, throwing, sweeping, placing or dropping litter; (Added 38 of 1981 s. 2)

"dwelling vessel" (住家船隻) means a dwelling vessel as defined in section 24(1) of the Shipping and Port Control Ordinance (Cap 313); (Added 33 of 1989 s. 2)

"lawful authority" (合法權限) extends to and denotes any permission which may be lawfully given by a public officer or department or by a private person;

"litter" (廢物) means any refuse, rubbish, earth, dirt, filth, dust, sawdust, paper, timber off-cuts, ashes, excreta, and any other matter of a like nature; (Added 38 of 1981 s. 2)

"owner" (船東) in relation to a vessel, means-

- (a) the person or persons registered or licensed as the owner of the vessel, or in the absence of registration or licensing, the person or persons owning the vessel, except that in relation to a vessel owned by a State which is operated by a person registered as the vessel's operator, it means the person registered as its operator; or
- (b) a demise charterer of the vessel; (Added 38 of 1981 s. 2)

"public meeting" (公眾聚會) includes any meeting in a public place and any meeting which the public or a section thereof are permitted to attend, whether on payment or otherwise; (Added 11 of 1949 s. 2)

"public officer," (公職人員) or "public department," (公共機關) extends to and includes the Chief Executive and every officer or department invested with or performing duties of a public nature, whether under the immediate control of the Chief Executive or not; (Amended 13 of 1999 s. 3)

"public place" (公眾地方) includes all piers, thoroughfares, streets, roads, lanes, alleys, courts, squares, archways, waterways, passages, paths, ways and places to which the public have access either continuously or periodically, whether the same are the property of the Government or of private persons. (Amended 29 of 1998 s. 105)



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Chapter:	553	Title:	ELECTRONIC TRANSACTIONS ORDINANCE	Gazette Number: L.N. 131 of 2004
Section:	2	Heading:	<b>Interpretation</b>	Version Date: 01/07/2004

(1) In this Ordinance, unless the context otherwise requires-  
"accept" (接受), in relation to a certificate-

- (a) in the case of a person named or identified in the certificate as the person to whom the certificate is issued, means to-
  - (i) confirm the accuracy of the information on the person as contained in the certificate;
  - (ii) authorize the publication of the certificate to any other person or in a repository;
  - (iii) use the certificate; or
  - (iv) otherwise demonstrate the approval of the certificate; or
- (b) in the case of a person to be named or identified in the certificate as the person to whom the certificate is issued, means to-
  - (i) confirm the accuracy of the information on the person that is to be contained in the certificate;
  - (ii) authorize the publication of the certificate to any other person or in a repository; or
  - (iii) otherwise demonstrate the approval of the certificate; (Aded 14 of 2004 s. 2)

"addressee" (收訊者), in relation to an electronic record sent by an originator, means the person who is specified by the originator to receive the electronic record but does not include an intermediary;

"asymmetric cryptosystem" (非對稱密碼系統) means a system capable of generating a secure key pair, consisting of a private key for generating a digital signature and a public key to verify the digital signature;

"certificate" (證書) means a record which-

- (a) is issued by a certification authority for the purpose of supporting a digital signature which purports to confirm the identity or other significant characteristics of the person who holds a particular key pair;
- (b) identifies the certification authority issuing it;

- (c) names or identifies the person to whom it is issued;
- (d) contains the public key of the person to whom it is issued; and
- (e) is signed by the certification authority issuing it; (Amended 14 of 2004 s. 2)

"certification authority" (核證機關) means a person who issues a certificate to a person (who may be another certification authority);

"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 31 for that certification authority;

"certification practice statement" (核證作業準則) means a statement issued by a certification authority to specify the practices and standards that the certification authority employs in issuing certificates;

"code of practice" (業務守則) means the code of practice published under section 33; (Amended 14 of 2004 s. 2)

"consent" (同意), in relation to a person, includes consent that can be reasonably inferred from the conduct of the person; (Added 14 of 2004 s. 2)

"correspond" (對應), in relation to private or public keys, means to belong to the same key pair;

"digital signature" (數碼簽署), in relation to an electronic record, means an electronic signature of the signer generated by the transformation of the electronic record using an asymmetric cryptosystem and a hash function such that a person having the initial untransformed electronic record and the signer's public key can determine-

- (a) whether the transformation was generated using the private key that corresponds to the signer's public key; and
- (b) whether the initial electronic record has been altered since the transformation was generated;

"electronic record" (電子紀錄) means a record generated in digital form by an information system, which can be-

- (a) transmitted within an information system or from one information system to another; and
- (b) stored in an information system or other medium;

"electronic signature" (電子簽署) means any letters, characters, numbers or other symbols in digital form attached to or logically associated with an electronic record, and executed or adopted for the purpose of authenticating or approving the electronic record;

"government entity" (政府單位) means a public officer or a public body; (Added 14 of 2004 s. 2)

"hash function" (雜湊函數) means an algorithm mapping or transforming one sequence of bits into another, generally smaller, set as the hash result, such that-

- (a) a record yields the same hash result every time the algorithm is executed using the same record as input;
- (b) it is computationally not feasible for a record to be derived or reconstituted from the hash result produced by the algorithm; and
- (c) it is computationally not feasible that 2 records can be found to produce the same hash result using the algorithm;

"information" (資訊) includes data, text, images, sound codes, computer programmes, software and databases;

"information system" (資訊系統) means a system which-

- (a) processes information;

- (b) records information;
- (c) can be used to cause information to be recorded, stored or otherwise processed in other information systems (wherever situated); and
- (d) can be used to retrieve information, whether the information is recorded or stored in the system itself or in other information systems (wherever situated);

"intermediary" (中介人), in relation to a particular electronic record, means a person who on behalf of a person, sends, receives or stores that electronic record or provides other incidental services with respect to that electronic record;

"issue" (發出), in relation to a certificate, means to-

- (a) create the certificate, and then notify the person named or identified in the certificate as the person to whom the certificate is issued of the information on the person as contained in the certificate; or
- (b) notify the person to be named or identified in the certificate as the person to whom the certificate is issued of the information on the person that is to be contained in the certificate, and then create the certificate,

and then make the certificate available for use by the person; (Replaced 14 of 2004 s. 2)

"key pair" (配對密碼匙), in an asymmetric cryptosystem, means a private key and its mathematically related public key, where the public key can verify a digital signature that the private key generates;

"originator" (發訊者), in relation to an electronic record, means a person, by whom, or on whose behalf, the electronic record is sent or generated but does not include an intermediary;

"Permanent Secretary" (常任秘書長) means the Permanent Secretary for Commerce, Industry and Technology (Communications and Technology); (Added 14 of 2004 s. 2)

"Postmaster General" (郵政署署長) means the Postmaster General within the meaning of the Post Office Ordinance (Cap 98);

"private key" (私人密碼匙) means the key of a key pair used to generate a digital signature;

"public key" (公開密碼匙) means the key of a key pair used to verify a digital signature;

"recognized certificate" (認可證書) means-

- (a) a certificate recognized under section 22;
- (b) a certificate of a type, class or description of certificate recognized under section 22; or
- (c) a certificate designated as a recognized certificate issued by the certification authority referred to in section 34;

"recognized certification authority" (認可核證機關) means a certification authority recognized under section 21 or the certification authority referred to in section 34;

"record" (紀錄) means information that is inscribed on, stored in or otherwise fixed on a tangible medium or that is stored in an electronic or other medium and is retrievable in a perceivable form;

"reliance limit" (倚據限額) means the monetary limit specified for reliance on a recognized certificate;

"repository" (儲存庫) means an information system for storing and retrieving certificates and other information relevant to certificates;

"responsible officer" (負責人員), in relation to a certification authority, means a person occupying a position of responsibility in relation to the activities of the certification authority relevant to this Ordinance;

"rule of law" (法律規則) means-

- (a) an Ordinance;

- (b) a rule of common law or a rule of equity; or
- (c) customary law;

"Secretary" (局長) means the Secretary for Commerce, Industry and Technology; (Amended L.N. 106 of 2002)

"sign" and "signature" (簽、簽署) include any symbol executed or adopted, or any methodology or procedure employed or adopted, by a person with the intention of authenticating or approving a record;

"subscriber" (登記人) means a person (who may be a certification authority) who-

- (a) is named or identified in a certificate as the person to whom the certificate is issued;
- (b) has accepted that certificate; and
- (c) holds a private key which corresponds to a public key listed in that certificate;

"trustworthy system" (穩當系統) means computer hardware, software and procedures that-

- (a) are reasonably secure from intrusion and misuse;
- (b) are at a reasonable level in respect of availability, reliability and ensuring a correct mode of operations for a reasonable period of time;
- (c) are reasonably suitable for performing their intended function; and
- (d) adhere to generally accepted security principles;

"verify a digital signature" (核實數碼簽署), in relation to a given digital signature, electronic record and public key, means to determine that-

- (a) the digital signature was generated using the private key corresponding to the public key listed in a certificate; and
- (b) the electronic record has not been altered since its digital signature was generated,

and any reference to a digital signature being verifiable is to be construed accordingly.

(Amended 14 of 2004 s.2; L.N. 131 of 2004)

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