

立法會
Legislative Council

LC Paper No. LS89/05-06

**Paper for the House Committee Meeting
on 30 June 2006**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 23 June 2006**

Date of tabling in LegCo : 28 June 2006

Amendment to be made by : 2nd meeting of LegCo in the next session (or the 1st meeting held not earlier than 21 days thereafter if extended by resolution)

Electronic Transactions Ordinance (Cap. 553)

Electronic Transactions Ordinance (Amendment of Schedule 3) Order 2006 (L.N. 151)

Electronic Transactions (Exclusion) (Amendment of Schedules) Order 2006 (L.N. 152)

Sections 5 to 8 of the Electronic Transactions Ordinance (Cap. 553) (“the Ordinance”) give legal recognition to electronic records and digital signatures. The effect of this is that where an Ordinance or a rule of common law or a rule of equity requires or permits information to be or given in writing, or requires the signature of a person, an electronic record and a digital signature satisfy the respective requirement. A list of the statutory provisions excluded from the application of sections 5 to 8 of the Ordinance is provided in various Schedules to the Ordinance. Section 11 of the Ordinance provides that the Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) may by order published in the Gazette exclude individual statutory provisions from the application of sections 5 to 8 of the Ordinance.

Electronic Transactions Ordinance (Amendment of Schedule 3) Order 2006

2. The Electronic Transactions Ordinance (Amendment of Schedule 3) Order 2006 is made by the Secretary for Commerce, Industry and Technology under section 50 of the Ordinance to add several provisions to Schedule 3 to the Ordinance. The effect is that a document required or permitted to be served on a person by personal service or post under these provisions may be served in the form of an electronic record. The electronic record must be sent to an information system designated by the person and the information in it must be accessible for subsequent reference.

3. By this Order, written notices relating to the following can be served by electronic means:

- (a) claims for compensation in respect of land resumption and creation of easements or rights under the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276);
- (b) objections and claims for compensation in relation to road works under the Roads (Works, Use and Compensation) Ordinance (Cap. 370); and
- (c) objections and notices to require resumption of land and claims for compensation in relation to railway development under the Railways Ordinance (Cap. 519).

4. The Order shall come into operation on 1 December 2006.

5. Members may wish to refer to the LegCo Brief (Ref: GCIO/A 107/4/3 (05)) issued by the Commerce, Industry and Technology Bureau in June 2006 (“the LegCo Brief”) for background information. Details of the provisions to be covered in the Order are set out in Annex C of the LegCo Brief.

6. According to the LegCo Brief, the Administration considers that no special public consultation is necessary.

7. The Administration has not consulted the Panel on Information Technology and Broadcasting on the Order.

8. No difficulties relating to the legal and drafting aspects of the Order have been identified.

Electronic Transactions (Exclusion) (Amendment of Schedules) Order 2006

9. The Electronic Transactions (Exclusion) (Amendment of Schedules) Order 2006 is made by the Permanent Secretary for Commerce, Industry and Technology (Communications and Technology) under section 11(1) of the Ordinance to amend Schedules 1, 2 and 4 to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) to the effect that the statutory provisions set out in the Order will no longer be excluded from the application of sections 5, 6 and 8 of the Ordinance. Electronic records can be used for the purposes of these provisions when the Order comes into operation on 1 December 2006.

10. By this Order, statutory provisions relating to the following will not be excluded from the application of sections 5, 6 and 8 of the Ordinance -

- (a) Lands-related submissions, objections and claims under the Lands Resumption Ordinance (Cap. 124), the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127), the Land Acquisition (Possessory

Title) Ordinance (Cap. 130), the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276), the Land Survey Ordinance (Cap. 473) and the New Territories Land Exchange Entitlements (Redemption) Ordinance (Cap. 495);

- (b) Transportation-related applications, objections and claims under the Roads (Works, Use and Compensation) Ordinance (Cap. 370), the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E) and the Railways Ordinance (Cap. 519);
- (c) Works-related submissions and applications under the Aerial Ropeways (Operation and Maintenance) Regulations (Cap. 211 sub. leg. A), the Peak Tramway (Safety) Regulations (Cap. 265 sub. leg. A) and the Builders' Lifts and Tower Working Platforms (Safety) Ordinance (Cap. 470);
- (d) Environment protection-related claims under the Water Pollution Control (Sewerage) Regulations (Cap. 358 sub. leg. AL);
- (e) Licensing applications in respect of places of amusement and hotels and guesthouses under the Places of Amusement Regulation (Cap. 132 sub. leg. BA) and the Hotel and Guesthouse Accommodation Ordinance (Cap. 349);
- (f) Trade-related registration matters under the Reserved Commodities (Control of Sales by Wholesale) Regulations (Cap. 296 sub. leg. B); and
- (g) Medical prescriptions under the Antibiotics Ordinance (Cap. 137).

11. Members may wish to refer to the LegCo Brief for background information. Details of the provisions to be covered by the Order are set out in Annex D of the LegCo Brief.

12. According to the LegCo Brief, the Administration considers that no special public consultation is necessary.

13. The Administration has not consulted the Panel on Information Technology and Broadcasting on the Order.

14. No difficulties relating to the legal and drafting aspects have been identified.

Prepared by

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