

LEGISLATIVE COUNCIL BRIEF

**SUBSIDIARY LEGISLATION RELATING TO THE
INFORMATION TECHNOLOGY STRATEGY PLAN**

Court Proceedings (Electronic Technology) Ordinance (Cap. 638)

District Court Ordinance (Cap. 336)

Costs in Criminal Cases Ordinance (Cap. 492)

**COURT PROCEEDINGS (ELECTRONIC TECHNOLOGY)
(SPECIFICATION OF E-COURTS) RULES**

**COURT PROCEEDINGS (ELECTRONIC TECHNOLOGY)
(MAGISTRATES' COURT) RULES**

**COURT PROCEEDINGS (ELECTRONIC TECHNOLOGY)
(DISTRICT COURT CIVIL PROCEEDINGS) RULES**

**COURT PROCEEDINGS (ELECTRONIC TECHNOLOGY)
(DISTRICT COURT CRIMINAL PROCEEDINGS) RULES**

**COURT PROCEEDINGS (ELECTRONIC TECHNOLOGY)
(DISTRICT COURT) (ELECTRONIC FEES) RULES**

**COURT PROCEEDINGS (ELECTRONIC TECHNOLOGY)
(MAGISTRATES' COURT) (ELECTRONIC FEES) RULES**

**COURT PROCEEDINGS (ELECTRONIC TECHNOLOGY)
ORDINANCE (COMMENCEMENT) NOTICE**

COSTS IN CRIMINAL CASES (AMENDMENT) RULES 2021

**DISTRICT COURT CIVIL PROCEDURE (FEES)(AMENDMENT)
RULES 2021**

**RULES OF THE DISTRICT COURT (AMENDMENT) RULES
2021**

INTRODUCTION

On 25 May 2021, the following subsidiary legislation were made by the Chief Justice (“CJ”):

- A (i) Court Proceedings (Electronic Technology) (Specification of e-Courts) Rules (“Specification e-Rules”) (**Annex A**);
- B (ii) Court Proceedings (Electronic Technology) (Magistrates’ Court) Rules (“MC e-Rules”) (**Annex B**);
- C (iii) Court Proceedings (Electronic Technology) (District Court Civil Proceedings) Rules (“DC Civil e-Rules”) (**Annex C**);
- D (iv) Court Proceedings (Electronic Technology) (District Court Criminal Proceedings) Rules (“DC Criminal e-Rules”) (**Annex D**);
- E (v) Court Proceedings (Electronic Technology) (District Court) (Electronic Fees) Rules (“DC e-fee Rules”) (**Annex E**);
- F (vi) Court Proceedings (Electronic Technology) (Magistrates’ Court) (Electronic Fees) Rules (“MC e-fee Rules”) (**Annex F**);
- G (vii) Court Proceedings (Electronic Technology) Ordinance (Commencement) Notice (“Commencement Notice”)(**Annex G**); and
- H (viii) Costs in Criminal Cases (Amendment) Rules 2021 (**Annex H**).

2. On 25 May 2021, the following subsidiary legislation were made by the District Court Rules Committee¹:

- I (i) District Court Civil Procedure (Fees) (Amendment) Rules 2021 (**Annex I**); and
- J (ii) the Rules of the District Court (Amendment) Rules 2021 (**Annex J**).

¹ The Rules Committee is established under section 72 of the District Court Ordinance to make rules and orders regulating the practice and procedure in the District Court. The Committee is chaired by the Chief Judge of the High Court and comprises, among others, a barrister nominated by the Hong Kong Bar Association and a solicitor nominated by the Law Society of Hong Kong.

3. The Costs in Criminal Cases (Amendment) Rules 2021 (item (viii) above) is subject to positive vetting by the Legislative Council (“LegCo”). The other nine sets of subsidiary legislation are subject to negative vetting by LegCo.

JUSTIFICATIONS

Overview

4. The Judiciary has been making on-going efforts to make use of technology for enhancing the efficiency of court operations. Over the past few years, the Judiciary has been proactively developing by phases an integrated court case management system (“iCMS”) under the Information Technology Strategy Plan (“ITSP”) to achieve the following objectives:

- (a) to replenish the existing IT systems by the latest technologies to ensure sustainable operation in the long run;
- (b) to provide more effective and efficient services of a higher quality to all stakeholders in support of the administration of justice through process re-engineering enabled by the use of IT;
- (c) to facilitate active case management throughout the entire litigation/adjudication and ancillary process in improving access to justice for the benefit of all stakeholders; and
- (d) to respond responsibly to the rising expectations from users and society.

5. Under the ITSP, the iCMS is being developed to handle court-related procedures and processes across various levels of courts and tribunals. Electronic services and facilities of various types will be introduced as appropriate as an additional option to the existing channels, to be used on a voluntary basis. While court users can choose to continue to interact with the Judiciary and other parties by conventional means, the Judiciary will encourage court users to transact court businesses by electronic means.

6. The ITSP is being implemented in two phases. The first phase consists of two stages for better management. In Stage 1 of Phase I, the

iCMS is being implemented in the District Court² (“DC”) and the Summons Courts³ of the Magistrates’ Courts (“MCs”). In Stage 2 of Phase I, the iCMS is expected to be extended to the Court of Final Appeal, the High Court, the remaining part of the MCs and the Small Claims Tribunal. For the remaining courts and tribunals, the iCMS is planned to be implemented under Phase II.

K

7. The Court Proceedings (Electronic Technology) Ordinance (“Cap. 638”) was enacted on 17 July 2020 (at **Annex K**). It provides an overall legislative framework to enable court-related documents to be handled in electronic form, eventually covering all levels of court. The key features include:

- (a) electronic filing or sending of documents to the court will generally be allowed;
- (b) documents between parties may be served electronically if there is mutual consent to serve and accept documents by electronic means;
- (c) signatures other than traditional manual signatures, such as digital signature and electronic signature, for court-related documents will generally be allowed; and
- (d) provide proper legal status for printouts/copies of printouts for documents issued by the court.

THE PROPOSED RULES

(a) New ITSP Procedural Rules

Court Proceedings (Electronic Technology) (Specification of e-Courts) Rules

² Except for the Family Court because its procedural rules are being reviewed under a separate exercise.

³ “Summons Courts” refers to the part of the Magistrates’ Courts that handle cases for which iCMS will be implemented at the first stage of implementation. The proceedings covered by Summons Courts are mainly proceedings initiated by summons and fixed penalty proceedings.

8. Under section 6 of Cap. 638, CJ can make rules to specify the courts/tribunals in which electronic documents may be used (“e-Court”). The Specification e-Rules at **Annex A** are proposed to specify the District Court and Magistrates’ Court as e-Courts at this stage.

E-Rules

9. Under section 26 of Cap. 638, CJ may make rules to regulate or prescribe the practice and procedure for using electronic technology in e-Courts. For Stage 1 of Phase I of the ITSP, the following three sets of e-Rules are being proposed to provide details on the implementation of the ITSP in the DC and the Summons Courts of MCs:

- (i) the Court Proceedings (Electronic Technology) (Magistrates’ Court) Rules (“MC e-Rules”) (**Annex B**);
- (ii) the Court Proceedings (Electronic Technology) (District Court Civil Proceedings) Rules (“DC Civil e-Rules”) (**Annex C**); and
- (iii) the Court Proceedings (Electronic Technology) (District Court Criminal Proceedings) Rules (“DC Criminal e-Rules”) (**Annex D**)

10. While there is commonality among the above three sets of e-Rules, the Judiciary considers it necessary to have three separate sets so that any special or unique features of the practice and procedures for the respective court/types of proceedings can be catered for. The Judiciary also considers that this would be clearer for court users.

11. Specifically, the three sets of e-Rules provide details for the use of electronic technology for the following matters:

- (a) documents which can be sent electronically through the iCMS and rules concerning the computation of time (part 3 of the MC e-Rules and DC Criminal e-Rules, part 4 of the DC civil e-Rules);
- (b) conversion of documents by e-Courts into electronic form through the iCMS (part 4 of the MC e-Rules and DC Criminal e-Rules, part 5 of the DC civil e-Rules);
- (c) electronic service of documents between parties. Generally, it applies to documents to be served by personal service or by

post (whether registered or not), but does not apply to the service of document with personal service as the only mode of service (part 5 of the MC e-Rules and DC Criminal e-Rules, part 6 of the DC civil e-Rules);

- (d) electronic authentication of documents, such as the conditions and requirements for using ordinary electronic signature, digital signature, scanned electronic signature and typing signature (part 6 of the MC e-Rules and DC Criminal e-Rules, part 7 of the DC civil e-Rules); and
- (e) electronic payment of fees and fines, etc. (part 7 of the MC e-Rules and DC Criminal e-Rules, part 9 of the DC civil e-Rules);

12. The DC Civil e-Rules (at **Annex C**) further provide for the following matters:

- (a) part 3 governs the effect of non-compliance with these Rules; and
- (b) part 8 governs the transfer of proceedings from e-Courts to non e-Courts, and vice versa.

E-fee Rules

13. Currently in the manual mode, court users who utilize the Judiciary's services (such as filing of documents to initiate a court case, search of court documents) may need to pay statutory fees in accordance with the relevant fees rules. When the ITSP is implemented, electronic fees ("e-fees") will be charged for electronic services provided to iCMS court users. Electronic fee rules ("e-fee Rules") are required to enable the charging of such e-fees.

14. Section 29 of Cap. 638 provides CJ with the power to make rules to provide for fees for the use of electronic mode in court-related matters. CJ is also empowered to make rules to provide for fee concessions in respect of particular court-related matters for a specified period. For Stage 1 of Phase I of the ITSP, the following two sets of e-fee Rules are proposed:

- (i) the Court Proceedings (Electronic Technology) (District Court) (Electronic Fees) Rules (“DC e-fee Rules”) (**Annex E**); and
- (ii) Court Proceedings (Electronic Technology) (Magistrates’ Court) (Electronic Fees) Rules (“MC e-fee Rules”) (**Annex F**).

15. Rules 4 to 8 of the DC e-fee Rules, and rules 4 to 6 of the MC e-fee Rules provide for the e-fees payable in respect of court-related matters carried out by iCMS in relation to the civil and criminal proceedings of the DC, and the Summons Courts of MCs. To encourage users to migrate to the electronic mode at the initial stage of ITSP implementation, the Judiciary intends to provide financial incentive for electronic mode users by offering concessionary fees should they opt to use the iCMS. The DC e-fee and MC e-fee Rules provide for a 20% concession on the existing fee levels to iCMS users for a period of five years.

(b) Commencement notice of Cap. 638

Court Proceedings (Electronic Technology) Ordinance (Commencement) Notice

16. Section 1(2) of Cap. 638 states that the Ordinance comes into operation on a day to be appointed by CJ by notice published in the Gazette. The Judiciary plans to table the Court Proceedings (Electronic Technology) Ordinance (Commencement) Notice at **Annex G** such that the Ordinance may commence operation on 1 October 2021.

(c) Amendment Rules

District Court Civil Procedure (Fees) (Amendment) Rules 2021

17. Currently, fees related to DC criminal proceedings are charged on an administrative basis, i.e. without any statutory provisions. For clarity, the Judiciary proposes to expand the scope of the District Court Civil Procedure (Fees) Rules (Cap. 336C) to cover fee items relating to criminal proceedings. As a result of such proposed changes, the title of Cap. 336C is also suggested to be amended to “District Court (Fees) Rules” accordingly.

18. Specifically, rule 8 of the District Court Civil Procedure (Fees) (Amendment) Rules 2021 (**Annex I**) amends the Schedule of Cap. 336C such that it will be divided into two parts. Part 1 of the Schedule will

consist of all existing fee items and they will be termed as “Fees Payable in respect of Proceedings (other than Criminal Proceedings)”, while Part 2 of the Schedule will set out fees payable in respect of criminal proceedings. Court users will then be charged fees related to DC criminal proceedings based on the amended Cap. 336C.

The Costs in Criminal Cases (Amendment) Rules 2021

19. The title of Cap. 336C is at present featured in rule 10(2)(a) of the Costs in Criminal Cases Rules (Cap. 492A). In consequence of the amendment made to the title of Cap. 336C as elaborated in paragraph 17, rule 3 of the Costs in Criminal Cases (Amendment) Rules 2021 (**Annex H**) amends rule 10(2)(a) of Cap. 492A so as to incorporate the new title of Cap. 336C.

Rules of the District Court (Amendment) Rules 2021 (“RDC Amendment Rules”)

(i) Proposed Removal of the Restriction on Service on Sundays

20. At the moment, Order 65, rule 10 of Rules of the District Court (Cap. 336H) provides that no process shall be served on Sunday except, in case of urgency, with the leave of the court. The Judiciary considers that such a restriction is no longer needed for the electronic mode. To better suit the possible modus operandi of parties in the electronic environment, the Judiciary suggests that service on Sunday be allowed.

21. To achieve this, rule 3 of the RDC Amendment Rules (at **Annex J**) amends Order 65, rule 10(1) of the RDC to indicate that this rule does not apply when one serves the related documents electronically under the DC Civil e-Rules.

(ii) Proposed Changes to the Statutory Form about Acknowledgement of Service of Writ of Summons

22. At present, in Form 14 at Appendix A of Cap. 336H about acknowledgement of service (“AS”) of writ of summons, there are directions and notes for guidance to facilitate litigants/legal representatives to complete an AS. Some paragraphs in the Form envisage a manual mode only, e.g. inviting the litigant/legal representative to post the AS to the Registry of the DC.

23. Rule 4 of the RDC Amendment Rules (at **Annex J**) amends the relevant paragraphs to include the option of using an electronic mode to submit the AS to the DC under the DC Civil e-Rules. Moreover, rule 4 also amends the Notes for Guidance under Form 14 to remind the defendants that they may ascertain the issuance of the writ of summons if they receive a printout of such documents issued by the DC in electronic form.

LEGISLATIVE TIMETABLE

24. The legislative timetable for the ten sets of subsidiary legislation is as follows:

Costs in Criminal Cases (Amendment) Rules 2021

Introduction into LegCo (for positive vetting)	To be advised
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The nine sets of subsidiary legislation (other than the Costs in Criminal Cases (Amendment) Rules 2021)

Publication in the Gazette	4 June 2021
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Tabling in the LegCo (for negative vetting)	9 June 2021
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Commencement Date

25. The iCMS is being implemented first at the DC and Summons Courts of the MCs under Stage 1 of Phase I of the ITSP. The Judiciary aims to implement the iCMS for DC civil cases in batches starting from Q4, 2021, followed by the Summons Courts of MCs and DC criminal cases in 2022. Therefore, those proposed Rules which are related to DC civil cases will come into operation on 1 October 2021⁴ whereas the MC e-Rules, the MC e-fee Rules and the DC Criminal e-Rules are proposed

⁴ When a concrete implementation date is available, CJ will issue implementation notices in accordance with section 32 of Cap. 638 to specify the date with effect from which an electronic mode can be used in a particular e-Court/type of proceeding. The commencement date of the e-Rules is set to be 1 October 2021 in order to allow for flexibility in specifying implementation dates.

to come into operation on a day to be appointed by CJ by notice published in the Gazette in due course.

IMPLICATIONS OF THE PROPOSAL

Financial and Staffing Implications

26. On financial implications, the Judiciary has secured a one-off capital cost of \$682 million to develop the relevant IT systems for Phase I of the ITSP implementation. As regards civil service implications, around 30 non-directorate posts⁵ were created from 2013-14 to 2019-20 for the implementation of this phase of the ITSP involving a total cost of around \$218 million.

Other implications

27. The proposed Rules are in conformity with the Basic Law, including the provisions concerning human rights, and will not affect the current binding effect of the Court Proceedings (Electronic Technology) Ordinance (Cap. 638), the District Court Ordinance (Cap. 336), and the Costs in Criminal Cases Ordinance (Cap. 492). They have no gender or family implications, and no sustainability implications other than economic implications set out in paragraph 28.

28. On economic implications, by providing an electronic option for handling court-related documents, the legislative proposals should facilitate more timely and efficient communication with the court and among parties, which will in the longer run improve the efficiency of litigation in Hong Kong. The use of an electronic mode will also help reduce paper usage, resulting in positive environmental implications.

PUBLIC CONSULTATION

29. On 29 April 2019, the LegCo Panel on Administration of Justice and Legal Services discussed the Judiciary's paper which outlined the legislative proposals related to the ITSP, including the key subsidiary legislation. At the meeting, the Panel indicated general support for the legislative proposals. Subsequently, the Judiciary also issued

⁵ These include posts of various grades, including Analyst/Programmer grade, Judicial Clerk grade and General grades.

information papers on 9 August 2019 and 27 January 2021 to update Members on the progress of various proposed Rules.

PUBLICITY

30. A press release will be issued and a spokesperson will be available for answering media enquiries.

ENQUIRIES

31. Any enquiry on this brief should be directed to Ms Vivian Cheung, Assistant Director of Administration, at 2810 3946 or Miss Winnie Wong, Assistant Judiciary Administrator (Development), at 2867 5201.

Administration Wing
Chief Secretary for Administration's Office

Judiciary Administration

2 June 2021

**Court Proceedings (Electronic Technology)
(Specification of e-Courts) Rules**

(Made by the Chief Justice under section 6 of the Court Proceedings
(Electronic Technology) Ordinance (Cap. 638))

1. Commencement

These Rules come into operation on 1 October 2021.

2. Specification of e-Courts

A court set out in the Schedule is specified as an e-Court.

Schedule

[r. 2]

e-Courts

1. District Court
2. Magistrates' Court



Chief Justice

25 May 2021

Explanatory Note

Under section 6 of the Court Proceedings (Electronic Technology) Ordinance (Cap. 638) (*Ordinance*), the Chief Justice is empowered to make rules to specify a court by or in relation to which electronic technology may be used under Part 5 of the Ordinance (*e-Court*).

2. These Rules specify the District Court and Magistrates' Court as e-Courts.

**Court Proceedings (Electronic Technology)
(Magistrates' Court) Rules**

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Court Proceedings (Electronic Technology) (Magistrates' Court) Rules

(Made by the Chief Justice under section 26 of the Court Proceedings
(Electronic Technology) Ordinance (Cap. 638))

Part 1

Preliminary

1. Commencement

These Rules come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

2. Interpretation

In these Rules—

administrative instructions (行政指示) means instructions issued under section 33(1) of the Ordinance;

closure time (暫停辦公時間), in relation to a court office, means—

- (a) any time on a weekday (other than a Saturday) during which the office is normally closed to the public;
- (b) any time on a Saturday or general holiday; or
- (c) any time during which the office is closed to the public for—
 - (i) a gale warning as defined by section 2 of the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62); or
 - (ii) a black rainstorm warning as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);

Court (法院) means the Magistrates' Court, a magistrate or a court office;

court office (法院辦事處) means a registry, or an office, of the Magistrates' Court;

direction of the Court (法院指示) means a direction given by the Magistrates' Court or a magistrate;

e-practice direction (電子實務指示) has the meaning given by section 9 of the Ordinance;

magistrate (裁判官) has the meaning given by section 2 of the MO;

Magistrates' Court (裁判法院) includes a juvenile court within the meaning of section 3A of the Juvenile Offenders Ordinance (Cap. 226);

MO (《裁判官條例》) means the Magistrates Ordinance (Cap. 227);

Organization User account holder (機構用戶帳戶持有人), in relation to a registered user, means an individual who, under any administrative instructions, may send (either in the individual's own name or in the individual's capacity as an officer in the registered user) a document to the Court by means of an e-system using the same account as the registered user;

registered user (註冊用戶) means a person who is registered as a user of an e-system under any administrative instructions;

written law (成文法律) has the meaning given by section 9 of the Ordinance.

Part 2

Authorization for Use of e-system and Application

3. Authorization for use of e-system

The use of an e-system is authorized for all proceedings to which these Rules apply.

4. Application

- (1) These Rules apply to a proceeding in the Court—
 - (a) specified in subrule (2); and
 - (b) for which the use of electronic technology has been implemented under an implementation notice.
- (2) The proceeding is a proceeding—
 - (a) in relation to which a notice of prosecution is or is to be filed under section 7D(1) of the MO;
 - (b) in relation to which a summons is or is to be issued under section 8(1) of the MO;
 - (c) in relation to which a notice to appear is or is to be served under section 8A(1) of the MO; or
 - (d) in relation to which a penalty notice is issued under an Ordinance specified in Schedule 1.
- (3) However, the proceeding must be in relation to—
 - (a) a contravention the proceedings in respect of which are or are to be initiated by a person specified in subrule (4); or
 - (b) an offence the prosecution of which is or is to be initiated by a person specified in subrule (4).
- (4) The person is—
 - (a) the Secretary for Justice; or

- (b) a complainant or informant who—
- (i) is acting or deemed to act on behalf of the Secretary for Justice to initiate the proceedings or prosecution; or
 - (ii) is authorized by an Ordinance (other than the MO) to initiate the proceedings or prosecution.
- (5) Unless otherwise ordered by the Court, these Rules cease to apply to a proceeding under subrule (1) if the Court makes an order that the proceeding be heard, or otherwise dealt with, together with any other proceeding to which these Rules do not apply.
- (6) In subrule (2)(d)—

penalty notice (罰款通知書), in relation to a contravention or an offence specified in an Ordinance, means a notice in which the person to whom the notice is sent is offered an opportunity to discharge the person's liability in respect of the contravention or offence by paying a fixed penalty imposed under the Ordinance.

Part 3

Documents Sent to Court by Means of e-system

5. Who may send documents to Court by means of e-system

Only a registered user or an Organization User account holder may send a document to the Court by means of an e-system.

6. Receiving time of documents sent to Court by means of e-system

- (1) This rule applies to a document sent to the Court by means of an e-system.
- (2) When the document is given system confirmation, the document is taken to have been received by the Court at the time it was given initial receipt.
- (3) However, if the time at which the document is given initial receipt is a time specified in subrule (4) (*specified time*), the document is taken to have been received by the Court at whichever is the earlier of the following times—
 - (a) the time when the relevant registry is next normally open to the public;
 - (b) the time when the relevant registry is next open for the relevant proceeding.
- (4) The specified time—
 - (a) is a closure time of the relevant registry; and
 - (b) is not a time during which the relevant registry is open for the relevant proceeding.
- (5) In this rule—

initial receipt (初步收據), in relation to a document sent under this rule, means the acknowledgement by the e-system of the initial

receipt of the whole document immediately before system confirmation;

relevant proceeding (有關法律程序), in relation to a document sent under this rule, means the proceeding to which the document relates;

relevant registry (有關登記處), in relation to a relevant proceeding, means the registry of the magistrate's court in which the proceeding is initiated;

system confirmation (系統確認), in relation to a document sent under this rule, means confirmation by the e-system of the acceptance of the document.

7. Sending electronic copies to Court

- (1) This rule applies if—
 - (a) a provision of written law or a direction of the Court requires a document to be conveyed by producing it to the Court as a paper document (**requirement**); or
 - (b) a provision of written law or a direction of the Court permits a document to be conveyed by producing it to the Court as a paper document (**permission**).
- (2) Despite the requirement, a copy of the document may be sent to the Court in electronic form by means of an e-system if the document is a document specified in subrule (4).
- (3) Without limiting the permission, a copy of the document may be sent to the Court in electronic form by means of an e-system if the document is a document specified in subrule (4).
- (4) The document is—
 - (a) a document specified in Schedule 2; or

- (b) any other document that falls within a type or description of documents specified in e-practice directions for the purposes of this rule.
-

Part 4

Conversion of Form of Documents by Court

8. Court may convert document from one form into another

- (1) If a document is sent by or to the Court in paper form, the Court may convert the document into electronic form for one or more of the purposes specified in subrule (3).
- (2) If a document is sent by or to the Court in electronic form, the Court may convert the document into paper form for one or more of the purposes specified in subrule (3).
- (3) The purposes are—
 - (a) compiling a case file for the proceeding to which the document relates;
 - (b) transferring the proceeding to which the document relates between 2 relevant courts;
 - (c) providing a copy of the document under section 35A of the MO;
 - (d) any other purpose the Court considers appropriate.

(4) In this rule—

relevant court (有關法院) means a court as defined by section 2 of the Ordinance;

send (送交), in relation to a document, means file, lodge, give, notify, serve, deliver, submit, furnish or any other expression that signifies or suggests conveying the document.

Part 5

Electronic Service of Documents

9. Interpretation of Part 5

In this Part—

designated system (指定系統) means the information system (other than an e-system) designated by a receiving person;

receiving person (接收人), in relation to a document, means the person on whom the document is to be served;

servicing person (送達人), in relation to a document, means the person who is to serve the document.

10. Application of Part 5

- (1) This Part applies if a provision of written law or a direction of the Court requires or permits a document to be served on or by a person by personal service or by post (whether registered or not).
- (2) However, this Part does not apply to the service of a document if—
 - (a) a provision of written law or a direction of the Court specifies in relation to the document personal service or delivery by hand as the only mode of service; or
 - (b) the document falls within a type or description of documents excluded by e-practice directions from the application of this Part.
- (3) This Part applies in relation to a document served on or by a person whether the provision of written law or direction of the Court—

- (a) uses “serve”, “send”, “give”, “deliver”, “furnish” (including grammatical variations and cognate expressions) or any other expression that signifies service; or
- (b) otherwise suggests the service of a document by a person on another person.

11. Sending documents by electronic transmission

For the purposes of this Part, a document is sent by electronic transmission if it is sent in the form of an electronic record to an information system.

12. Electronic service of documents

If the condition specified in rule 13(1) is satisfied, a document may be served by a serving person on a receiving person by sending the document to a designated system by electronic transmission.

13. Consent to acceptance of service by electronic transmission

- (1) For the purposes of rule 12, the condition is that the receiving person has given a notice—
 - (a) notifying the serving person that the receiving person consents to accept service of the document by electronic transmission; and
 - (b) notifying the serving person of the designated system for receiving the document.
- (2) The notice may be given in any way the receiving person considers appropriate, except orally.
- (3) The consent takes effect at the time when the receiving person gives the notice.

- (4) If the notice is given by post (whether registered or not), the notice is taken to have been given on the day of posting the notice.

14. Withdrawal of consent to acceptance of service by electronic transmission

- (1) The receiving person of a document may file and serve on the serving person of the document a notice to withdraw the consent to the acceptance of service by electronic transmission.
- (2) The notice must be in the form specified in e-practice directions.

15. Change of designated system for receiving documents

- (1) The receiving person of a document may file and serve on the serving person of the document a notice to change the designated system.
- (2) The notice must be in the form specified in e-practice directions.

16. Service of notice under rule 14(1) or 15(1)

A notice specified in rule 14(1) or 15(1) may be served by the receiving person of a document on the serving person of the document—

- (a) in any way the document may be served under a provision of written law or a direction of the Court; or
- (b) if the serving person has notified the receiving person that the serving person consents to accept service by electronic transmission—by sending the notice to the information system designated by the serving person by electronic transmission.

17. When electronic service is effected

- (1) If a document is served under rule 12 or 16(b), the document is, unless the contrary is shown, taken to have been served on the business day following the day on which the document is sent by electronic transmission.
- (2) In subrule (1)—
business day (工作天) means a day other than a general holiday.

Part 6

Electronic Authentication of Documents

Division 1—Interpretation

18. Interpretation of Part 6

In this Part—

digital signature (數碼簽署) means a digital signature within the meaning of section 2(1) of the ETO that satisfies the requirements specified in rule 26;

electronic signature (電子簽署) has the meaning given by section 2(1) of the ETO;

ETO (《電子交易條例》) means the Electronic Transactions Ordinance (Cap. 553);

ordinary electronic signature (一般電子簽署) means an electronic signature that complies with the conditions specified in rule 25;

scanned electronic signature (經掃描電子簽署) means an electronic signature that complies with the conditions specified in rule 24;

signer (簽署人) means a person referred to in rule 20(a).

Division 2—Authentication of Documents Sent by Court

19. Authentication of documents sent by Court

- (1) Subrule (2) applies to a document that—
 - (a) is required or permitted to be signed or certified by a person specified in subrule (3) under a provision of written law or a direction of the Court; and
 - (b) is in electronic form.

- (2) The document must be authenticated—
 - (a) by the signature of the person in the form of—
 - (i) a scanned electronic signature;
 - (ii) an ordinary electronic signature; or
 - (iii) a digital signature; or
 - (b) in any other way prescribed by e-practice directions.
- (3) The person is—
 - (a) a magistrate; or
 - (b) any other officer of the Court.
- (4) Subrule (5) applies to a document that—
 - (a) is required or permitted to be sealed by the Court under a provision of written law or a direction of the Court; and
 - (b) is in electronic form.
- (5) The document must be sealed in a way prescribed by e-practice directions.

Division 3—Authentication of Documents Sent to Court by Means of e-system

20. Application of Division 3

This Division applies to a document that—

- (a) is required or permitted to be signed by a person under a provision of written law or a direction of the Court; and
- (b) is sent to the Court by means of an e-system.

21. Authentication of affidavits etc. sent to Court

- (1) This rule applies if the document is—
 - (a) an affidavit; or

- (b) any other document made on oath and filed in support of an application.
- (2) The document must be authenticated—
 - (a) by the signature of the signer in the form of a scanned electronic signature; or
 - (b) in any other way prescribed by e-practice directions.

22. Authentication of other documents sent to Court

- (1) A document that is not a document specified in rule 21(1) must be authenticated—
 - (a) by the signature of the signer in the form of—
 - (i) a scanned electronic signature;
 - (ii) an ordinary electronic signature; or
 - (iii) a digital signature; or
 - (b) in any other way prescribed by e-practice directions.
- (2) Without limiting subrule (1), if the signer of the document is the submitter of the document, the document may be authenticated—
 - (a) if the submitter is a registered user—by inputting the signer's name at a place where the signature of the signer would otherwise appear on the document; and
 - (b) if the submitter is an Organization User account holder—by inputting the signer's name and, if applicable, the post title with the registered user concerned, at a place where the signature of the signer would otherwise appear on the document.
- (3) In subrule (2)—

submitter (呈交人), in relation to a document, means a registered user or an Organization User account holder, who sends the document to the Court by means of an e-system.

Division 4—Authentication of Documents Served on or by Parties in Electronic Form

23. Authentication of documents served on or by parties

- (1) This rule applies to a document that—
 - (a) is served in electronic form by a serving person on a receiving person;
 - (b) is required or permitted to be signed by the serving person under a provision of written law or a direction of the Court; and
 - (c) is not sent to the Court.
- (2) The document may be authenticated—
 - (a) by the signature of the serving person in the form of—
 - (i) a scanned electronic signature;
 - (ii) an ordinary electronic signature; or
 - (iii) a digital signature; or
 - (b) in any other way agreed by the serving person and receiving person.
- (3) In this rule—

receiving person (接收人), in relation to a document, means the person on whom the document is to be served;

serving person (送達人), in relation to a document, means the person who is to serve the document.

Division 5—Conditions and Requirements for Using Electronic Signature and Digital Signature

24. Conditions for using scanned electronic signature

The conditions specified for the purposes of the definition of *scanned electronic signature* are that—

- (a) the signer manually signs the original paper document; and
- (b) a true and complete electronic image of the original paper document containing the signature of the signer is created in the form of an electronic record.

25. Conditions for using ordinary electronic signature

The conditions specified for the purposes of the definition of *ordinary electronic signature* are that—

- (a) the document is in the form of an electronic record;
- (b) the signer uses a method to attach the electronic signature to the electronic record or to logically associate that signature with the electronic record for the purposes of—
 - (i) identifying the signer as the person who signed the document; and
 - (ii) indicating that the information contained in the document is authenticated or approved by the signer; and
- (c) having regard to all the relevant circumstances, the method is reliable, and is appropriate, for the purpose for which the information contained in the document is communicated.

26. **Requirements for using digital signature**

(1) The requirements specified for the purposes of the definition of *digital signature* are that—

- (a) the digital signature is supported by a recognized certificate;
- (b) the digital signature is generated within the validity of the certificate; and
- (c) the digital signature is used in accordance with the terms of that certificate.

(2) In this rule—

certification authority (核證機關) has the meaning given by section 2(1) of the ETO;

recognized certificate (認可證書) has the meaning given by section 2(1) of the ETO;

recognized certification authority (認可核證機關) has the meaning given by section 2(1) of the ETO;

within the validity of the certificate (在該證書的有效期內) means that at the time the digital signature is generated—

- (a) the certificate that supports it has not been revoked or suspended by the certification authority that issued the certificate;
- (b) the recognition of the certificate has not been revoked or suspended by the Government Chief Information Officer;
- (c) if it is a certificate designated as a recognized certificate issued by the recognized certification authority referred to in section 34 of the ETO—the designation has not been withdrawn by the certification authority;
- (d) if the Government Chief Information Officer has specified a period of validity for the recognition of the certificate—the certificate is within that period; and

- (e) if the recognized certification authority has specified a period of validity for the certificate—the certificate is within that period.

Part 7

Electronic Payments

27. Electronic payment of fees, fines, etc.

- (1) This rule applies to a payment that is made by means of an e-system for a purpose specified in the administrative instructions for the purposes of this rule.
- (2) The payment is taken to have been received by the Court at the time when the payment transaction is completed (*completion time*).
- (3) However, if the completion time is a time specified in subrule (4) (*specified time*), the payment is taken to have been received by the Court at whichever is the earlier of the following times—
 - (a) the time when the relevant accounts office is next normally open to the public;
 - (b) the time when the relevant accounts office is next open for the relevant proceeding.
- (4) The specified time—
 - (a) is a closure time of the relevant accounts office; and
 - (b) is not a time during which the relevant accounts office is open for the relevant proceeding.
- (5) In this rule—

relevant accounts office (有關會計部), in relation to a relevant proceeding, means the accounts office of the magistrate's court in which the proceeding is initiated;

relevant proceeding (有關法律程序), in relation to a payment made under this rule, means the proceeding to which the payment relates.

Schedule 1

[r. 4]

Ordinances under which Penalty Notices are Issued

1. Buildings Ordinance (Cap. 123)
 2. Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237)
 3. Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)
 4. Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283 sub. leg. C)
 5. Mass Transit Railway (Transport Interchange) Bylaw (Cap. 556 sub. leg. D)
 6. Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570)
 7. Fixed Penalty (Smoking Offences) Ordinance (Cap. 600)
 8. Product Eco-responsibility Ordinance (Cap. 603)
 9. Motor Vehicle Idling (Fixed Penalty) Ordinance (Cap. 611)
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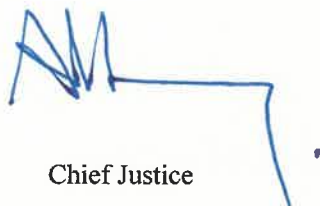
Schedule 2

[r. 7]

Documents that may be Sent to Court by Means of e-system instead of Producing Them as Paper Documents

1. A document specified in section 5 or 6 of Schedule 7 to the Buildings Ordinance (Cap. 123) that is produced for an application under section 3 of that Schedule
2. A document specified in section 19(a) or (b) of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) that is produced for an application under section 16(2) of that Ordinance
3. A document specified in section 7(1)(a) or (b) of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) that is produced for an application under section 3A(1) of that Ordinance
4. A document specified in section 15(a) or (b) of the Housing (Traffic Contraventions) (Fixed Penalty) Bylaw (Cap. 283 sub. leg. C) that is produced for an application under section 11(2) of that Bylaw
5. A document specified in section 46(a) or (b) of the Mass Transit Railway (Transport Interchange) Bylaw (Cap. 556 sub. leg. D) that is produced for an application under section 42(2) of that Bylaw
6. A document specified in section 9(1)(a) or (b) of the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570) that is produced for an application under section 8(1) of that Ordinance

7. A document specified in section 9(1)(a) or (b) of the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) that is produced for an application under section 8(1) of that Ordinance
8. A document specified in section 28G(5)(a), (b) or (c) of the Product Eco-responsibility Ordinance (Cap. 603) that is produced for an application under section 28G(2) of that Ordinance
9. A document specified in section 13(3)(a), (b) or (c) of the Motor Vehicle Idling (Fixed Penalty) Ordinance (Cap. 611) that is produced for an application under section 13(2) of that Ordinance



Chief Justice

25 May 2021

Explanatory Note

Under section 26 of the Court Proceedings (Electronic Technology) Ordinance (Cap. 638) (*Ordinance*), the Chief Justice is empowered to make rules to, among other purposes—

- (a) prescribe the practice and procedure for using electronic technology for the matters set out in Part 5 of the Ordinance; and
 - (b) authorize the use of an e-system for a specified type or description of proceeding that is within the jurisdiction of an e-Court.
2. Under the Court Proceedings (Electronic Technology) (Specification of e-Courts) Rules, the Magistrates' Court (*Court*) is specified as an e-Court.
 3. These Rules authorize the use of an e-system for certain proceedings in the Court (Part 2).
 4. These Rules also prescribe the practice and procedure for using electronic technology for the following matters—
 - (a) documents that are sent to the Court in electronic form by means of an e-system (Part 3);
 - (b) conversion of documents by the Court from paper form into electronic form or vice versa (Part 4);
 - (c) electronic service of documents (Part 5);
 - (d) electronic authentication of documents (Part 6);
 - (e) electronic payment of fees, fines, etc. (Part 7).

Court Proceedings (Electronic Technology) (District Court Civil Proceedings) Rules

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Court Proceedings (Electronic Technology) (District Court Civil Proceedings) Rules

(Made by the Chief Justice under section 26 of the Court Proceedings (Electronic Technology) Ordinance (Cap. 638))

Part 1

Preliminary

1. Commencement

These Rules come into operation on 1 October 2021.

2. Interpretation

In these Rules—

administrative instructions (行政指示) means instructions issued under section 33(1) of the Ordinance;

closure time (暫停辦公時間), in relation to a court office, means—

- (a) any time on a weekday (other than a Saturday) during which the office is normally closed to the public;
- (b) any time on a Saturday or general holiday; or
- (c) any time during which the office is closed to the public for—
 - (i) a gale warning as defined by section 2 of the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62); or
 - (ii) a black rainstorm warning as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);

Court (法院) means the District Court, a judge, a judicial officer or a court office;

court office (法院辦事處) means the registry of the District Court or an office of the District Court;

direction of the Court (法院指示) means a direction given by the District Court, a judge or a judicial officer;

e-practice direction (電子實務指示) has the meaning given by section 9 of the Ordinance;

judge (法官) means a judge of the District Court or a deputy District Judge;

judicial officer (司法人員) means—

- (a) a master of the District Court;
- (b) the Registrar of the District Court;
- (c) a Deputy Registrar of the District Court; or
- (d) an Assistant Registrar of the District Court;

Organization User account holder (機構用戶帳戶持有人), in relation to a registered user, means an individual who, under any administrative instructions, may send (either in the individual's own name or in the individual's capacity as an officer in the registered user) a document to the Court by means of an e-system using the same account as the registered user;

RDC (《區院規則》) means the Rules of the District Court (Cap. 336 sub. leg. H);

registered user (註冊用戶) means a person who is registered as a user of an e-system under any administrative instructions;

written law (成文法律) has the meaning given by section 9 of the Ordinance.

Part 2

Authorization for Use of e-system and Application

3. Authorization for use of e-system

The use of an e-system is authorized for all proceedings to which these Rules apply.

4. Application

- (1) These Rules apply to a proceeding in the Court—
 - (a) specified in subrule (2); and
 - (b) for which the use of electronic technology has been implemented under an implementation notice.
- (2) The proceeding is—
 - (a) a proceeding to which any of the following rules apply—
 - (i) the Employees' Compensation (Rules of Court) Rules (Cap. 282 sub. leg. B);
 - (ii) the District Court Equal Opportunities Rules (Cap. 336 sub. leg. G);
 - (iii) the RDC; or
 - (b) a proceeding under Part III of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7).
- (3) Unless otherwise ordered by the Court, these Rules cease to apply to a proceeding under subrule (1) if—
 - (a) the Court makes an order under Order 4, rule 9(1) of the RDC (*consolidation order*) in relation to the proceeding; and

- (b) these Rules do not apply to any other proceeding in relation to which the consolidation order is made.

Part 3

Non-compliance with these Rules

5. Effect of non-compliance

- (1) If, in the course of or in connection with a proceeding, because of anything done or left undone, there has been a failure to comply with a requirement of these Rules, the failure—
 - (a) is to be treated as an irregularity; and
 - (b) does not nullify—
 - (i) the proceeding;
 - (ii) a step taken in the proceeding; or
 - (iii) a document, judgment or order in the proceeding.
- (2) The Court may, on the ground that there has been a failure mentioned in subrule (1), and on such terms as to costs or otherwise as it considers just—
 - (a) set aside either wholly or in part the proceeding in which the failure occurred, the step taken in the proceeding or the document, judgment or order in the proceeding; or
 - (b) exercise its powers under the RDC and make such order as it considers appropriate.

6. Application to set aside for irregularity

- (1) An application to set aside for irregularity a proceeding, a step taken in a proceeding or a document, judgment or order in a proceeding must not be allowed unless it is made—
 - (a) within a reasonable time; and
 - (b) before the party applying has taken any fresh step after becoming aware of the irregularity.

- (2) An application under this rule may be made by summons and the grounds on which the application is made must be stated in the summons.

Part 4

Documents Sent to Court by Means of e-system

7. Interpretation of Part 4

In this Part—

Registry (登記處) means the registry of the District Court.

8. Who may send documents to Court by means of e-system

Only a registered user or an Organization User account holder may send a document to the Court by means of an e-system.

9. Receiving time of documents sent to Court by means of e-system

- (1) This rule applies to a document sent to the Court by means of an e-system other than a document sent to the Court for issue out of the Court.
- (2) When the document is given system confirmation, the document is taken to have been received by the Court at the time it was given initial receipt.
- (3) However, if the time at which the document is given initial receipt is a time specified in subrule (4) (*specified time*), the document is taken to have been received by the Court at whichever is the earlier of the following times—
 - (a) the time when the Registry is next normally open to the public;
 - (b) the time when the Registry is next open for the proceeding to which the document relates.
- (4) The specified time—
 - (a) is a closure time of the Registry; and

(b) is not a time during which the Registry is open for the proceeding to which the document relates.

(5) In this rule—

initial receipt (初步收據), in relation to a document sent under this rule, means the acknowledgement by the e-system of the initial receipt of the whole document immediately before system confirmation;

system confirmation (系統確認), in relation to a document sent under this rule, means confirmation by the e-system of the acceptance of the document.

10. Issuing time of documents sent to Court by means of e-system—originating documents etc.

(1) This rule applies to a document that—

(a) is—

- (i) a document by which proceedings are commenced in the Court;
- (ii) an inter-partes summons; or
- (iii) any other document that falls within a type or description of documents specified in e-practice directions for the purposes of this rule;

(b) is sent by a registered user or an Organization User account holder to the Court by means of an e-system for issue out of the Court; and

(c) has been issued out of the Court.

(2) The document is taken to have been issued out of the Court at the time it was given initial receipt.

(3) However, if the time at which the document is given initial receipt is a time specified in subrule (4) (*specified time*), the

document is taken to have been issued out of the Court at whichever is the earlier of the following times—

- (a) the time when the Registry is next normally open to the public;
 - (b) the time when the Registry is next open for the proceeding to which the document relates.
- (4) The specified time—
- (a) is a closure time of the Registry; and
 - (b) is not a time during which the Registry is open for the proceeding to which the document relates.
- (5) In this rule—

initial receipt (初步收據), in relation to a document sent under this rule, means the acknowledgement by the e-system of the initial receipt of the whole document immediately before the issue of the document out of the Court.

**11. Issuing time of documents sent to Court by means of e-system—
other documents**

- (1) This rule applies to a document that—
 - (a) is not a document specified in rule 10(1)(a);
 - (b) is sent by a registered user or an Organization User account holder to the Court by means of an e-system for issue out of the Court; and
 - (c) has been issued out of the Court, whether amended by the Court or not.
- (2) The document is taken to have been issued out of the Court at the time it was sent by the Court to the registered user or the Organization User account holder (as the case requires) by means of an e-system.

12. Electronic copies sent to Court instead of originals or certified documents

- (1) This rule applies if—
 - (a) a provision of written law or a direction of the Court requires an original or a certified document to be sent to the Court (*requirement*); or
 - (b) a provision of written law or a direction of the Court permits an original or a certified document to be sent to the Court (*permission*).
- (2) This rule applies in relation to a document sent to the Court whether the provision of written law or direction of the Court—
 - (a) uses “file”, “lodge”, “send”, “give”, “notify”, “serve”, “deliver”, “submit”, “furnish” (including grammatical variation and cognate expressions) or any other expression that signifies conveying a document; or
 - (b) otherwise suggests the conveying of a document to the Court.
- (3) Despite the requirement, a copy of the original or certified document may be sent to the Court in electronic form by means of an e-system if the original or certified document is a document specified in subrule (5).
- (4) Without limiting the permission, a copy of the original or certified document may be sent to the Court in electronic form by means of an e-system if the original or certified document is a document specified in subrule (5).
- (5) The document is—
 - (a) a resolution referred to in Order 5A, rule 2(2)(c)(i) or (ii) of the RDC;
 - (b) an agreement referred to in Order 42, rule 6(2)(a) of the RDC; or

- (c) any other document that falls within a type or description of documents specified in e-practice directions for the purposes of this rule.

13. Sending electronic copies to Court instead of producing paper documents

- (1) This rule applies if—
 - (a) a provision of written law or a direction of the Court requires a document to be conveyed by producing it to the Court as a paper document (*requirement*); or
 - (b) a provision of written law or a direction of the Court permits a document to be conveyed by producing it to the Court as a paper document (*permission*).
- (2) Despite the requirement, a copy of the document may be sent to the Court in electronic form by means of an e-system if the document is a document specified in subrule (4).
- (3) Without limiting the permission, a copy of the document may be sent to the Court in electronic form by means of an e-system if the document is a document specified in subrule (4).
- (4) The document is—
 - (a) a document specified in the Schedule; or
 - (b) any other document that falls within a type or description of documents specified in e-practice directions for the purposes of this rule.
- (5) Without affecting subrules (2) and (3), in making an order that a document be produced to the Court under the RDC, the Court may instead permit the document to be sent to the Court in electronic form by means of an e-system.

Part 5

Conversion of Form of Documents by Court

14. Court may convert document from one form into another

- (1) If a document is sent by or to the Court in paper form, the Court may convert the document into electronic form for one or more of the purposes specified in subrule (3).
- (2) If a document is sent by or to the Court in electronic form, the Court may convert the document into paper form for one or more of the purposes specified in subrule (3).
- (3) The purposes are—
 - (a) compiling a case file for the proceeding to which the document relates;
 - (b) transferring the proceeding to which the document relates under Part 8;
 - (c) providing a copy of the document under Order 63, rule 4 of the RDC;
 - (d) any other purpose the Court considers appropriate.
- (4) In this rule—

send (送交), in relation to a document, means file, lodge, give, notify, serve, deliver, submit, furnish or any other expression that signifies or suggests conveying the document.

Part 6

Electronic Service of Documents

15. Interpretation of Part 6

In this Part—

designated system (指定系統) means the information system (other than an e-system) designated by a receiving person;

originating document (原訴文件) means the document by which proceedings are commenced in the Court;

receiving person (接收人), in relation to a document, means the person on whom the document is to be served;

serving person (送達人), in relation to a document, means the person who is to serve the document.

16. Application of Part 6

- (1) This Part applies if a provision of written law or a direction of the Court requires or permits a document to be served on or by a person by personal service or by post (whether registered or not).
- (2) However, this Part does not apply to the service of a document if—
 - (a) a provision of written law or a direction of the Court specifies in relation to the document personal service or delivery by hand as the only mode of service; or
 - (b) the document falls within a type or description of documents excluded by e-practice directions from the application of this Part.

- (3) This Part applies in relation to a document served on or by a person whether the provision of written law or direction of the Court—
 - (a) uses “serve”, “send”, “give”, “deliver”, “furnish” (including grammatical variations and cognate expressions) or any other expression that signifies service; or
 - (b) otherwise suggests the service of a document by a person on another person.

17. Sending documents by electronic transmission

For the purposes of this Part, a document is sent by electronic transmission if it is sent in the form of an electronic record to an information system.

18. Electronic service of documents

- (1) If the condition specified in rule 19(1) is satisfied, a document may be served by a serving person on a receiving person by sending the document to a designated system by electronic transmission.
- (2) However, service of a document on a receiving person who is not within the jurisdiction may only be effected under subrule (1) if—
 - (a) it is effected also in compliance with Order 11 of the RDC; or
 - (b) it is effected on the solicitor representing the receiving person in the proceeding concerned.
- (3) Subrule (1) does not affect the operation of Order 65, rule 4 of the RDC.

- (4) For the purposes of the RDC, the designated system to which a document is sent under subrule (1) is taken to be at the address for service of the receiving person of the document.

19. Consent to acceptance of service by electronic transmission

- (1) For the purposes of rule 18(1), the condition is that the receiving person has given a notice—
 - (a) notifying the serving person that the receiving person consents to accept service of the document by electronic transmission; and
 - (b) notifying the serving person of the designated system for receiving the document.
- (2) The notice may be given in any way the receiving person considers appropriate, except orally.
- (3) The consent takes effect at the time when the receiving person gives the notice.
- (4) If the notice is given by post (whether registered or not), the notice is taken to have been given on the day of posting the notice.

20. Withdrawal of consent to acceptance of service by electronic transmission

- (1) The receiving person of a document may file and serve on the serving person of the document a notice to withdraw the consent to the acceptance of service by electronic transmission.
- (2) The notice must be in the form specified in e-practice directions.

21. Change of designated system for receiving documents

- (1) The receiving person of a document may file and serve on the serving person of the document a notice to change the designated system.
- (2) The notice must be in the form specified in e-practice directions.

22. Service of notice under rule 20(1) or 21(1)

A notice specified in rule 20(1) or 21(1) may be served by a receiving person on a serving person—

- (a) in accordance with Order 65, rule 5 of the RDC; or
- (b) if the serving person has notified the receiving person that the serving person consents to accept service by electronic transmission—by sending the notice to the information system designated by the serving person by electronic transmission.

23. When electronic service is effected

- (1) If an originating document is served under rule 18, the document is, unless the contrary is shown, taken to have been served on the seventh day following the day on which the document is sent by electronic transmission.
- (2) If a document (other than an originating document) is served under rule 18 or 22(b), the document is, unless the contrary is shown, taken to have been served on the business day following the day on which the document is sent by electronic transmission.
- (3) In subrule (2)—

business day (工作天) means a day other than a general holiday.

24. Proof of electronic service of documents

- (1) This rule applies if—
 - (a) a serving person is required under a provision of written law or a direction of the Court to file an affidavit proving due service of a document on a receiving person; and
 - (b) the document is served in accordance with rule 18.
- (2) The affidavit proving due service of the document must contain a statement to the effect that in the opinion of the deponent (or, if the deponent is a solicitor of the serving person or an employee of the solicitor, in the opinion of the serving person), the document was sent successfully by electronic transmission.
- (3) If the document is an originating document, the affidavit proving its due service must also contain a statement to the effect that in the opinion of the deponent (or, if the deponent is a solicitor of the serving person or an employee of the solicitor, in the opinion of the serving person), the document will have come to the knowledge of the receiving person within 7 days following the day on which the document is sent by electronic transmission.
- (4) The affidavit proving due service of the document (whether an originating document or not) must exhibit the record—
 - (a) evidencing the satisfaction of the condition specified in rule 19(1); and
 - (b) evidencing the sending of the document by electronic transmission.

25. Failure to give notice of intention to defend

- (1) This rule applies if—
 - (a) a writ was purportedly served by a serving person on a receiving person under rule 18; and

- (b) judgment has been entered against the receiving person under Order 13 of the RDC.
- (2) If, after judgment has been entered by the serving person against the receiving person, the serving person becomes aware that the copy of the writ was not sent successfully, the serving person must, before taking any step in the action or the enforcement of the judgment, either—
 - (a) make a request for the judgment to be set aside on the ground that the writ has not been duly served; or
 - (b) apply to the Court for directions.
- (3) Order 13, rule 7(4) and (5) of the RDC applies to a writ purportedly served in accordance with rule 18 in proceedings before the Court as if—
 - (a) a reference in Order 13, rule 7(4) of the RDC to paragraph (3)(a) were a reference to subrule (2)(a);
 - (b) a reference in Order 13, rule 7(5) of the RDC to paragraph (3)(b) were a reference to subrule (2)(b); and
 - (c) a reference in Order 13, rule 7(5)(b) of the RDC to the return were a reference to the unsuccessful sending by electronic transmission.
- (4) In this rule—

writ (令狀) means a writ of summons.

Part 7

Electronic Authentication of Documents

Division 1—Interpretation

26. Interpretation of Part 7

In this Part—

digital signature (數碼簽署) means a digital signature within the meaning of section 2(1) of the ETO that satisfies the requirements specified in rule 34;

electronic signature (電子簽署) has the meaning given by section 2(1) of the ETO;

ETO (《電子交易條例》) means the Electronic Transactions Ordinance (Cap. 553);

ordinary electronic signature (一般電子簽署) means an electronic signature that complies with the conditions specified in rule 33;

scanned electronic signature (經掃描電子簽署) means an electronic signature that complies with the conditions specified in rule 32;

signer (簽署人) means a person referred to in rule 28(a).

Division 2—Authentication of Documents Sent by Court

27. Authentication of documents sent by Court

- (1) Subrule (2) applies to a document that—
 - (a) is required or permitted to be signed or certified by a person specified in subrule (3) under a provision of written law or a direction of the Court; and
 - (b) is in electronic form.

- (2) The document must be authenticated—
 - (a) by the signature of the person in the form of—
 - (i) a scanned electronic signature;
 - (ii) an ordinary electronic signature; or
 - (iii) a digital signature; or
 - (b) in any other way prescribed by e-practice directions.
- (3) The person is—
 - (a) a judge;
 - (b) a judicial officer; or
 - (c) any other officer appointed or attached to the District Court under section 14(1) of the District Court Ordinance (Cap. 336).
- (4) Subrule (5) applies to a document that—
 - (a) is required or permitted to be sealed by the Court under a provision of written law or a direction of the Court; and
 - (b) is in electronic form.
- (5) The document must be sealed in a way prescribed by e-practice directions.

Division 3—Authentication of Documents Sent to Court by Means of e-system

28. Application of Division 3

This Division applies to a document that—

- (a) is required or permitted to be signed by a person under a provision of written law or a direction of the Court; and
- (b) is sent to the Court by means of an e-system.

29. Authentication of affidavits etc. sent to Court

- (1) This rule applies if the document is—
 - (a) an affidavit (except an affidavit proving due service of a document);
 - (b) a statutory declaration;
 - (c) a deposition under Order 39, rule 11 of the RDC; or
 - (d) a notarial instrument within the meaning of section 35A(2) of the Evidence Ordinance (Cap. 8).
- (2) The document must be authenticated—
 - (a) by the signature of the signer in the form of a scanned electronic signature; or
 - (b) in any other way prescribed by e-practice directions.

30. Authentication of other documents sent to Court

- (1) A document that is not a document specified in rule 29(1) must be authenticated—
 - (a) by the signature of the signer in the form of—
 - (i) a scanned electronic signature;
 - (ii) an ordinary electronic signature; or
 - (iii) a digital signature; or
 - (b) in any other way prescribed by e-practice directions.
- (2) Without limiting subrule (1), if the signer of the document is the submitter of the document, the document may be authenticated—
 - (a) if the submitter is a registered user—by inputting the signer's name at a place where the signature of the signer would otherwise appear on the document; and
 - (b) if the submitter is an Organization User account holder—by inputting the signer's name and, if applicable, the post

title with the registered user concerned, at a place where the signature of the signer would otherwise appear on the document.

- (3) In subrule (2)—

submitter (呈交人), in relation to a document, means a registered user or an Organization User account holder, who sends the document to the Court by means of an e-system.

Division 4—Authentication of Documents Served on or by Parties in Electronic Form

31. Authentication of documents served on or by parties

- (1) This rule applies to a document that—
 - (a) is served in electronic form by a serving person on a receiving person;
 - (b) is required or permitted to be signed by the serving person under a provision of written law or a direction of the Court; and
 - (c) is not sent to the Court.
- (2) The document may be authenticated—
 - (a) by the signature of the serving person in the form of—
 - (i) a scanned electronic signature;
 - (ii) an ordinary electronic signature; or
 - (iii) a digital signature; or
 - (b) in any other way agreed by the serving person and receiving person.
- (3) In this rule—

receiving person (接收人), in relation to a document, means the person on whom the document is to be served;

servicing person (送達人), in relation to a document, means the person who is to serve the document.

Division 5—Conditions and Requirements for Using Electronic Signature and Digital Signature

32. Conditions for using scanned electronic signature

The conditions specified for the purposes of the definition of *scanned electronic signature* are that—

- (a) the signer manually signs the original paper document; and
- (b) a true and complete electronic image of the original paper document containing the signature of the signer is created in the form of an electronic record.

33. Conditions for using ordinary electronic signature

The conditions specified for the purposes of the definition of *ordinary electronic signature* are that—

- (a) the document is in the form of an electronic record;
- (b) the signer uses a method to attach the electronic signature to the electronic record or to logically associate that signature with the electronic record for the purposes of—
 - (i) identifying the signer as the person who signed the document; and
 - (ii) indicating that the information contained in the document is authenticated or approved by the signer; and
- (c) having regard to all the relevant circumstances, the method is reliable, and is appropriate, for the purpose for which the information contained in the document is communicated.

34. Requirements for using digital signature

- (1) The requirements specified for the purposes of the definition of *digital signature* are that—
 - (a) the digital signature is supported by a recognized certificate;
 - (b) the digital signature is generated within the validity of the certificate; and
 - (c) the digital signature is used in accordance with the terms of that certificate.

- (2) In this rule—

certification authority (核證機關) has the meaning given by section 2(1) of the ETO;

recognized certificate (認可證書) has the meaning given by section 2(1) of the ETO;

recognized certification authority (認可核證機關) has the meaning given by section 2(1) of the ETO;

within the validity of the certificate (在該證書的有效期內) means that at the time the digital signature is generated—

- (a) the certificate that supports it has not been revoked or suspended by the certification authority that issued the certificate;
- (b) the recognition of the certificate has not been revoked or suspended by the Government Chief Information Officer;
- (c) if it is a certificate designated as a recognized certificate issued by the recognized certification authority referred to in section 34 of the ETO—the designation has not been withdrawn by the certification authority;
- (d) if the Government Chief Information Officer has specified a period of validity for the recognition of the certificate—the certificate is within that period; and

- (e) if the recognized certification authority has specified a period of validity for the certificate—the certificate is within that period.
-

Part 8

Transfer of Proceedings

35. Interpretation of Part 8

In this Part—

court (某法院) means a court as defined by section 2 of the Ordinance;

non-e-Court (非電子法院) means a court that is not an e-Court;

Registrar (司法常務官) has the meaning given by Order 1, rule 4(1) of the RDC;

transfer document (移交文件), in relation to a proceeding in a court, means—

- (a) a document issued out of, or sent to, the court in the proceeding;
- (b) a note of the proceeding of the court; or
- (c) a transcript or record of the proceeding.

36. Transfer of proceedings from Court to non-e-Court

- (1) This rule applies if an order is made by the Court for the transfer of a proceeding from the Court to a non-e-Court.
- (2) The Registrar must, as soon as practicable after the order is made, send to the non-e-Court all transfer documents in relation to the proceeding.
- (3) If a transfer document in relation to the proceeding is in electronic form, the Registrar may convert the document into paper form before sending it to the non-e-Court.

37. Transfer of proceedings from non-e-Court to Court

- (1) This rule applies if an order is made by a court for the transfer of a proceeding from a non-e-Court to the Court.
- (2) On receiving a transfer document in relation to the proceeding from the non-e-Court, the Registrar may—
 - (a) convert the document into electronic form; and
 - (b) file the document in an electronic case file to be maintained by the Court for the proceeding transferred.

38. Transfer of proceedings within Court

- (1) Subrule (2) applies if—
 - (a) an order is made by the Court directing that a proceeding (*relevant proceeding*) that was entered in a particular list of the Court (*existing list*) be transferred to another list of the Court (*new list*);
 - (b) a proceeding in the existing list is a proceeding for which the use of an e-system has not been implemented under an implementation notice; and
 - (c) a proceeding in the new list is a proceeding for which the use of an e-system has been implemented under an implementation notice.
- (2) The Registrar may—
 - (a) convert into electronic form all transfer documents in relation to the relevant proceeding in the existing list; and
 - (b) file the documents in an electronic case file to be maintained for the relevant proceeding in the new list.
- (3) Subrule (4) applies if—
 - (a) an order is made by the Court directing that a proceeding (*relevant proceeding*) that was entered in a particular list

of the Court (*existing list*) be transferred to another list of the Court (*new list*);

- (b) a proceeding in the existing list is a proceeding for which the use of an e-system has been implemented under an implementation notice; and
 - (c) a proceeding in the new list is a proceeding for which the use of an e-system has not been implemented under an implementation notice.
- (4) The Registrar may—
- (a) convert into paper form all transfer documents in relation to the relevant proceeding in the existing list; and
 - (b) file the documents and make an entry of the filing of the documents in the cause book.
- (5) In subrule (4)—
- cause book* (訟案登記冊) has the meaning given by Order 1, rule 4(1) of the RDC.

Part 9

Electronic Payments

39. Electronic payment of fees, fines, etc.

- (1) This rule applies to a payment that is made by means of an e-system for a purpose specified in the administrative instructions for the purposes of this rule.
- (2) The payment is taken to have been received by the Court at the time when the payment transaction is completed (*completion time*).
- (3) However, if the completion time is a time specified in subrule (4) (*specified time*), the payment is taken to have been received by the Court at whichever is the earlier of the following times—
 - (a) the time when the accounts office of the Court is next normally open to the public;
 - (b) the time when the accounts office is next open for the proceeding to which the payment relates.
- (4) The specified time—
 - (a) is a closure time of the accounts office of the Court; and
 - (b) is not a time during which the accounts office is open for the proceeding to which the payment relates.

Schedule

[r. 13]

Documents that may be Sent to Court by Means of e-system instead of Producing Them as Paper Documents

1. A receipt for payment of expenses referred to in Order 11, rule 8 of the RDC
2. A receipt for payment of expenses referred to in Order 11, rule 8A of the RDC
3. A certificate by a plaintiff's solicitor referred to in Order 13, rule 4(1) of the RDC
4. An affidavit referred to in Order 13, rule 4(1) of the RDC
5. A writ indorsed by a defendant's solicitor referred to in Order 13, rule 7(1) of the RDC
6. An affidavit referred to in Order 13, rule 7(4) of the RDC
7. A certificate by a plaintiff's solicitor referred to in Order 19, rule 5(1) of the RDC
8. An affidavit referred to in Order 19, rule 5(1) of the RDC
9. A consent to an action being withdrawn referred to in Order 21, rule 2(4) of the RDC
10. A true copy of the record of proceedings referred to in Order 25, rule 11(1)(c) of the RDC

11. A note authorizing the issue of a writ referred to in Order 32, rule 10(1) of the RDC
12. A true copy of the record of proceedings referred to in Order 37, rule 1(1A)(d) of the RDC
13. A certificate, order or other document referred to in Order 42, rule 5(3) of the RDC
14. An order referred to in Order 42, rule 5(6) of the RDC
15. A draft writ referred to in Order 44A, rule 1(2)(a) of the RDC
16. A judgment or order, or an office copy of a judgment or order, referred to in Order 46, rule 6(4)(a)(i) of the RDC
17. An order or evidence referred to in Order 46, rule 6(4)(a)(ii) of the RDC
18. A bailiff's list referred to in Order 47, rule 6(6) of the RDC
19. A receipt for fees to counsel referred to in paragraph 2(1) of Part II of Schedule 1 to Order 62 of the RDC
20. A certificate referred to in section 75A(1) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7)
21. An authority to distrain referred to in section 107 of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7)



Chief Justice

25 May 2021

Explanatory Note

Under section 26 of the Court Proceedings (Electronic Technology) Ordinance (Cap. 638) (*Ordinance*), the Chief Justice is empowered to make rules to, among other purposes—

- (a) prescribe the practice and procedure for using electronic technology for the matters set out in Part 5 of the Ordinance; and
 - (b) authorize the use of an e-system for a specified type or description of proceeding that is within the jurisdiction of an e-Court.
2. Under the Court Proceedings (Electronic Technology) (Specification of e-Courts) Rules, the District Court (*Court*) is specified as an e-Court.
3. These Rules authorize the use of an e-system for certain civil proceedings in the Court (Part 2).
4. These Rules also prescribe the practice and procedure for using electronic technology for the following matters—
 - (a) documents that are sent to the Court in electronic form by means of an e-system (Part 4);
 - (b) conversion of documents by the Court from paper form into electronic form, or vice versa (Part 5);
 - (c) electronic service of documents (Part 6);
 - (d) electronic authentication of documents (Part 7);
 - (e) electronic payment of fees, fines, etc. (Part 9).
5. These Rules further provide for the following matters—
 - (a) the effect of non-compliance with these Rules (Part 3);
 - (b) the transfer of proceedings from the Court to a court that is not an e-Court, or vice versa (Part 8).

Court Proceedings (Electronic Technology) (District Court Criminal Proceedings) Rules

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Court Proceedings (Electronic Technology) (District Court Criminal Proceedings) Rules

(Made by the Chief Justice under section 26 of the Court Proceedings
(Electronic Technology) Ordinance (Cap. 638))

Part 1

Preliminary

1. Commencement

These Rules come into operation on a day to be appointed by the
Chief Justice by notice published in the Gazette.

2. Interpretation

In these Rules—

administrative instructions (行政指示) means instructions issued
under section 33(1) of the Ordinance;

closure time (暫停辦公時間), in relation to a court office, means—

- (a) any time on a weekday (other than a Saturday) during
which the office is normally closed to the public;
- (b) any time on a Saturday or general holiday; or
- (c) any time during which the office is closed to the public
for—
 - (i) a gale warning as defined by section 2 of the Judicial
Proceedings (Adjournment During Gale Warnings)
Ordinance (Cap. 62); or

- (ii) a black rainstorm warning as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1);

Court (法院) means the District Court, a judge, a judicial officer or a court office;

court office (法院辦事處) means the registry of the District Court or an office of the District Court;

direction of the Court (法院指示) means a direction given by the District Court, a judge or a judicial officer;

e-practice direction (電子實務指示) has the meaning given by section 9 of the Ordinance;

judge (法官) means a judge of the District Court or a deputy District Judge;

judicial officer (司法人員) means—

- (a) a master of the District Court;
- (b) the Registrar of the District Court;
- (c) a Deputy Registrar of the District Court; or
- (d) an Assistant Registrar of the District Court;

Organization User account holder (機構用戶帳戶持有人), in relation to a registered user, means an individual who, under any administrative instructions, may send (either in the individual's own name or in the individual's capacity as an officer in the registered user) a document to the Court by means of an e-system using the same account as the registered user;

registered user (註冊用戶) means a person who is registered as a user of an e-system under any administrative instructions;

written law (成文法律) has the meaning given by section 9 of the Ordinance.

Part 2

Authorization for Use of e-system and Application

3. Authorization for use of e-system

The use of an e-system is authorized for all proceedings to which these Rules apply.

4. Application

- (1) These Rules apply to a proceeding in the Court—
 - (a) specified in subrule (2); and
 - (b) for which the use of electronic technology has been implemented under an implementation notice.
- (2) The proceeding is—
 - (a) a criminal proceeding in relation to—
 - (i) a charge or complaint that is transferred to the Court under section 88 of the Magistrates Ordinance (Cap. 227); or
 - (ii) an indictment, the proceedings on which are transferred to the Court under section 65F of the Criminal Procedure Ordinance (Cap. 221); or
 - (b) a proceeding for taxation of costs or review of taxation of costs of—
 - (i) a criminal proceeding in the Court; or
 - (ii) a criminal proceeding in the Magistrates' Court.
- (3) However, these Rules do not apply to a proceeding (other than a proceeding specified in subrule (2)(b)) in relation to which

the Rules of the District Court (Cap. 336 sub. leg. H) have effect.

- (4) In subrule (2)—

Magistrates' Court (裁判法院) has the meaning given by rule 2 of the Court Proceedings (Electronic Technology) (Magistrates' Court) Rules.

Part 3

Documents Sent to Court by Means of e-system

5. Who may send documents to Court by means of e-system

Only a registered user or an Organization User account holder may send a document to the Court by means of an e-system.

6. Receiving time of documents sent to Court by means of e-system

- (1) This rule applies to a document sent to the Court by means of an e-system other than a document sent for issue by the Court.
- (2) When the document is given system confirmation, the document is taken to have been received by the Court at the time it was given initial receipt.
- (3) However, if the time at which the document is given initial receipt is a time specified in subrule (4) (*specified time*), the document is taken to have been received by the Court at whichever is the earlier of the following times—
 - (a) the time when the Registry is next normally open to the public;
 - (b) the time when the Registry is next open for the proceeding to which the document relates.
- (4) The specified time—
 - (a) is a closure time of the Registry; and
 - (b) is not a time during which the Registry is open for the proceeding to which the document relates.
- (5) In this rule—

initial receipt (初步收據), in relation to a document sent under this rule, means the acknowledgement by the e-system of the initial

receipt of the whole document immediately before system confirmation;

Registry (登記處) means the registry of the District Court;

system confirmation (系統確認), in relation to a document sent under this rule, means confirmation by the e-system of the acceptance of the document.

Part 4

Conversion of Form of Documents by Court

7. Court may convert document from one form into another

- (1) If a document is sent by or to the Court in paper form, the Court may convert the document into electronic form for one or more of the purposes specified in subrule (3).
- (2) If a document is sent by or to the Court in electronic form, the Court may convert the document into paper form for one or more of the purposes specified in subrule (3).
- (3) The purposes are—
 - (a) compiling a case file for the proceeding to which the document relates;
 - (b) transferring the proceeding to which the document relates between 2 relevant courts;
 - (c) providing a copy of the document under section 79 of the Criminal Procedure Ordinance (Cap. 221);
 - (d) any other purpose the Court considers appropriate.

(4) In this rule—

relevant court (有關法院) means a court as defined by section 2 of the Ordinance;

send (送交), in relation to a document, means file, lodge, give, notify, serve, deliver, submit, furnish or any other expression that signifies or suggests conveying the document.

Part 5

Electronic Service of Documents

8. Interpretation of Part 5

In this Part—

designated system (指定系統) means the information system (other than an e-system) designated by a receiving person;

receiving person (接收人), in relation to a document, means the person on whom the document is to be served;

servicing person (送達人), in relation to a document, means the person who is to serve the document.

9. Application of Part 5

- (1) This Part applies if a provision of written law or a direction of the Court requires or permits a document to be served on or by a person by personal service or by post (whether registered or not).
- (2) However, this Part does not apply to the service of a document if—
 - (a) a provision of written law or a direction of the Court specifies in relation to the document personal service or delivery by hand as the only mode of service; or
 - (b) the document falls within a type or description of documents excluded by e-practice directions from the application of this Part.
- (3) This Part applies in relation to a document served on or by a person whether the provision of written law or direction of the Court—

- (a) uses “serve”, “send”, “give”, “deliver”, “furnish” (including grammatical variations and cognate expressions) or any other expression that signifies service; or
- (b) otherwise suggests the service of a document by a person on another person.

10. Sending documents by electronic transmission

For the purposes of this Part, a document is sent by electronic transmission if it is sent in the form of an electronic record to an information system.

11. Electronic service of documents

If the condition specified in rule 12(1) is satisfied, a document may be served by a serving person on a receiving person by sending the document to a designated system by electronic transmission.

12. Consent to acceptance of service by electronic transmission

- (1) For the purposes of rule 11, the condition is that the receiving person has given a notice—
 - (a) notifying the serving person that the receiving person consents to accept service of the document by electronic transmission; and
 - (b) notifying the serving person of the designated system for receiving the document.
- (2) The notice may be given in any way the receiving person considers appropriate, except orally.
- (3) The consent takes effect at the time when the receiving person gives the notice.

- (4) If the notice is given by post (whether registered or not), the notice is taken to have been given on the day of posting the notice.

13. Withdrawal of consent to acceptance of service by electronic transmission

- (1) The receiving person of a document may file and serve on the serving person of the document a notice to withdraw the consent to the acceptance of service by electronic transmission.
- (2) The notice must be in the form specified in e-practice directions.

14. Change of designated system for receiving documents

- (1) The receiving person of a document may file and serve on the serving person of the document a notice to change the designated system.
- (2) The notice must be in the form specified in e-practice directions.

15. Service of notice under rule 13(1) or 14(1)

A notice specified in rule 13(1) or 14(1) may be served by the receiving person of a document on the serving person of the document—

- (a) in any way the document may be served under a provision of written law or a direction of the Court; or
- (b) if the serving person has notified the receiving person that the serving person consents to accept service by electronic transmission—by sending the notice to the information system designated by the serving person by electronic transmission.

16. When electronic service is effected

- (1) If a document is served under rule 11 or 15(b), the document is, unless the contrary is shown, taken to have been served on the business day following the day on which the document is sent by electronic transmission.
- (2) In subrule (1)—
business day (工作天) means a day other than a general holiday.

Part 6

Electronic Authentication of Documents

Division 1—Interpretation

17. Interpretation of Part 6

In this Part—

digital signature (數碼簽署) means a digital signature within the meaning of section 2(1) of the ETO that satisfies the requirements specified in rule 25;

electronic signature (電子簽署) has the meaning given by section 2(1) of the ETO;

ETO (《電子交易條例》) means the Electronic Transactions Ordinance (Cap. 553);

ordinary electronic signature (一般電子簽署) means an electronic signature that complies with the conditions specified in rule 24;

scanned electronic signature (經掃描電子簽署) means an electronic signature that complies with the conditions specified in rule 23;

signer (簽署人) means a person referred to in rule 19(a).

Division 2—Authentication of Documents Sent by Court

18. Authentication of documents sent by Court

- (1) Subrule (2) applies to a document that—
 - (a) is required or permitted to be signed or certified by a person specified in subrule (3) under a provision of written law or a direction of the Court; and

- (b) is in electronic form.
- (2) The document must be authenticated—
 - (a) by the signature of the person in the form of—
 - (i) a scanned electronic signature;
 - (ii) an ordinary electronic signature; or
 - (iii) a digital signature; or
 - (b) in any other way prescribed by e-practice directions.
- (3) The person is—
 - (a) a judge;
 - (b) a judicial officer; or
 - (c) any other officer appointed or attached to the District Court under section 14(1) of the District Court Ordinance (Cap. 336).
- (4) Subrule (5) applies to a document that—
 - (a) is required or permitted to be sealed by the Court under a provision of written law or a direction of the Court; and
 - (b) is in electronic form.
- (5) The document must be sealed in a way prescribed by e-practice directions.

Division 3—Authentication of Documents Sent to Court by Means of e-system

19. Application of Division 3

This Division applies to a document that—

- (a) is required or permitted to be signed by a person under a provision of written law or a direction of the Court; and
- (b) is sent to the Court by means of an e-system.

20. Authentication of affidavits etc. sent to Court

- (1) This rule applies if the document is—
 - (a) an affidavit; or
 - (b) any other document made on oath and filed in support of an application.
- (2) The document must be authenticated—
 - (a) by the signature of the signer in the form of a scanned electronic signature; or
 - (b) in any other way prescribed by e-practice directions.

21. Authentication of other documents sent to Court

- (1) A document that is not a document specified in rule 20(1) must be authenticated—
 - (a) by the signature of the signer in the form of—
 - (i) a scanned electronic signature;
 - (ii) an ordinary electronic signature; or
 - (iii) a digital signature; or
 - (b) in any other way prescribed by e-practice directions.
- (2) Without limiting subrule (1), if the signer of the document is the submitter of the document, the document may be authenticated—
 - (a) if the submitter is a registered user—by inputting the signer's name at a place where the signature of the signer would otherwise appear on the document; and
 - (b) if the submitter is an Organization User account holder—by inputting the signer's name and, if applicable, the post title with the registered user concerned, at a place where

the signature of the signer would otherwise appear on the document.

(3) In subrule (2)—

submitter (呈交人), in relation to a document, means a registered user or an Organization User account holder, who sends the document to the Court by means of an e-system.

Division 4—Authentication of Documents Served on or by Parties in Electronic Form

22. Authentication of documents served on or by parties

(1) This rule applies to a document that—

- (a) is served in electronic form by a serving person on a receiving person;
- (b) is required or permitted to be signed by the serving person under a provision of written law or a direction of the Court; and
- (c) is not sent to the Court.

(2) The document may be authenticated—

- (a) by the signature of the serving person in the form of—
 - (i) a scanned electronic signature;
 - (ii) an ordinary electronic signature; or
 - (iii) a digital signature; or
- (b) in any other way agreed by the serving person and receiving person.

(3) In this rule—

receiving person (接收人), in relation to a document, means the person on whom the document is to be served;

servicing person (送達人), in relation to a document, means the person who is to serve the document.

Division 5—Conditions and Requirements for Using Electronic Signature and Digital Signature

23. Conditions for using scanned electronic signature

The conditions specified for the purposes of the definition of **scanned electronic signature** are that—

- (a) the signer manually signs the original paper document; and
- (b) a true and complete electronic image of the original paper document containing the signature of the signer is created in the form of an electronic record.

24. Conditions for using ordinary electronic signature

The conditions specified for the purposes of the definition of **ordinary electronic signature** are that—

- (a) the document is in the form of an electronic record;
- (b) the signer uses a method to attach the electronic signature to the electronic record or to logically associate that signature with the electronic record for the purposes of—
 - (i) identifying the signer as the person who signed the document; and
 - (ii) indicating that the information contained in the document is authenticated or approved by the signer; and
- (c) having regard to all the relevant circumstances, the method is reliable, and is appropriate, for the purpose for

which the information contained in the document is communicated.

25. Requirements for using digital signature

- (1) The requirements specified for the purposes of the definition of *digital signature* are that—
 - (a) the digital signature is supported by a recognized certificate;
 - (b) the digital signature is generated within the validity of the certificate; and
 - (c) the digital signature is used in accordance with the terms of that certificate.
- (2) In this rule—

certification authority (核證機關) has the meaning given by section 2(1) of the ETO;

recognized certificate (認可證書) has the meaning given by section 2(1) of the ETO;

recognized certification authority (認可核證機關) has the meaning given by section 2(1) of the ETO;

within the validity of the certificate (在該證書的有效期內) means that at the time the digital signature is generated—

 - (a) the certificate that supports it has not been revoked or suspended by the certification authority that issued the certificate;
 - (b) the recognition of the certificate has not been revoked or suspended by the Government Chief Information Officer;
 - (c) if it is a certificate designated as a recognized certificate issued by the recognized certification authority referred to

in section 34 of the ETO—the designation has not been withdrawn by the certification authority;

- (d) if the Government Chief Information Officer has specified a period of validity for the recognition of the certificate—the certificate is within that period; and
- (e) if the recognized certification authority has specified a period of validity for the certificate—the certificate is within that period.

Part 7

Electronic Payments

26. Electronic payment of fees, fines, etc.

- (1) This rule applies to a payment that is made by means of an e-system for a purpose specified in the administrative instructions for the purposes of this rule.
- (2) The payment is taken to have been received by the Court at the time when the payment transaction is completed (*completion time*).
- (3) However, if the completion time is a time specified in subrule (4) (*specified time*), the payment is taken to have been received by the Court at whichever is the earlier of the following times—
 - (a) the time when the accounts office of the Court is next normally open to the public;
 - (b) the time when the accounts office is next open for the proceeding to which the payment relates.
- (4) The specified time—
 - (a) is a closure time of the accounts office of the Court; and
 - (b) is not a time during which the accounts office is open for the proceeding to which the payment relates.



Chief Justice

25 May 2021

Explanatory Note

Under section 26 of the Court Proceedings (Electronic Technology) Ordinance (Cap. 638) (*Ordinance*), the Chief Justice is empowered to make rules to, among other purposes—

- (a) prescribe the practice and procedure for using electronic technology for the matters set out in Part 5 of the Ordinance; and
 - (b) authorize the use of an e-system for a specified type or description of proceeding that is within the jurisdiction of an e-Court.
2. Under the Court Proceedings (Electronic Technology) (Specification of e-Courts) Rules, the District Court (*Court*) is specified as an e-Court.
3. These Rules authorize the use of an e-system for certain proceedings in the Court (Part 2).
4. These Rules also prescribe the practice and procedure for using electronic technology for the following matters—
 - (a) documents that are sent to the Court in electronic form by means of an e-system (Part 3);
 - (b) conversion of documents by the Court from paper form into electronic form, or vice versa (Part 4);
 - (c) electronic service of documents (Part 5);
 - (d) electronic authentication of documents (Part 6);
 - (e) electronic payment of fees, fines, etc. (Part 7).

Court Proceedings (Electronic Technology) (District Court) (Electronic Fees) Rules

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Court Proceedings (Electronic Technology) (District Court) (Electronic Fees) Rules

(Made by the Chief Justice under section 29 of the Court Proceedings (Electronic Technology) Ordinance (Cap. 638))

Part 1

Preliminary

1. Commencement

These Rules come into operation on 1 October 2021.

2. Interpretation

In these Rules—

concessionary period (寬減期) means the period of 5 years beginning on 1 October 2021;

court-related matter (法院相關事宜) means—

- (a) an act or matter that relates to a proceeding in the District Court; or
- (b) a service, or other matter, made available or provided by the District Court, the Registry or an office of the District Court;

DC Fees Rules (《區院費用規則》) means the District Court (Fees) Rules (Cap. 336 sub. leg. C);

EA Regulation (《地產代理規例》) means the Estate Agents (Registration of Determination and Appeal) Regulation (Cap. 511 sub. leg. E);

e-fee (電子費用) means a fee that is payable under these Rules for a court-related matter that is carried out by means of an e-system;

LT Fees Rules (《審裁處費用規則》) means the Labour Tribunal (Fees) Rules (Cap. 25 sub. leg. B);

RDC (《區院規則》) means the Rules of the District Court (Cap. 336 sub. leg. H);

Registrar (司法常務官) has the meaning given by section 2 of the District Court Ordinance (Cap. 336);

Registry (登記處) means the registry of the District Court.

Part 2

Application

3. Application

These Rules apply in relation to a court-related matter that is carried out by means of an e-system.

Part 3

e-fees Payable for Certain Proceedings in District Court

4. e-fees payable for District Court civil proceedings

- (1) Subject to subrule (2), the following e-fee is payable for a court-related matter described in column 2 (*relevant matter*)—
 - (a) during a period other than the concessionary period—the DC civil fee for the item that bears the item number specified in column 3 opposite to the relevant matter;
 - (b) during the concessionary period—a fee of an amount equivalent to 80% of the DC civil fee for the item that bears the item number specified in column 3 opposite to the relevant matter.
- (2) No e-fee is payable for item 4(a) of Part 1 of the Schedule.
- (3) In this rule, a reference to a column is a reference to a column of Part 1 of the Schedule.
- (4) In this rule—

DC civil fee (區院民事費用), in relation to an item, means a fee specified or described for the item in Part 1 of the Schedule to the DC Fees Rules.

5. e-fees payable for District Court criminal proceedings

- (1) Subject to subrule (2), the following e-fee is payable for a court-related matter described in column 2 (*relevant matter*)—
 - (a) during a period other than the concessionary period—the DC criminal fee for the item that bears the item number specified in column 3 opposite to the relevant matter;
 - (b) during the concessionary period—a fee of an amount equivalent to 80% of the DC criminal fee for the item that

bears the item number specified in column 3 opposite to the relevant matter.

- (2) No e-fee is payable for item 2(a) of Part 2 of the Schedule.
- (3) In this rule, a reference to a column is a reference to a column of Part 2 of the Schedule.
- (4) In this rule—

DC criminal fee (區院刑事費用), in relation to an item, means a fee specified for the item in Part 2 of the Schedule to the DC Fees Rules.

6. e-fees payable for proceedings under Part III of Cap. 7

- (1) The following e-fee is payable for distraint for rent under Part III of Cap. 7—
 - (a) during a period other than the concessionary period—the distraint fee specified for the sum sued for;
 - (b) during the concessionary period—a fee of an amount equivalent to 80% of the distraint fee specified for the sum sued for.

- (2) In this rule—

Cap. 7 (《第7章》) means the Landlord and Tenant (Consolidation) Ordinance (Cap. 7);

distraint fee (財物扣押費) means a fee specified under the column headed “Fee for every affidavit, warrant to distrain, notice or other document” in the Fourth Schedule to Cap. 7.

7. e-fees in relation to Labour Tribunal proceedings

- (1) The following e-fee is payable for a court-related matter described in column 2 (*relevant matter*)—

- (a) during a period other than the concessionary period—the LT fee for the item that bears the item number specified in column 3 opposite to the relevant matter;
- (b) during the concessionary period—a fee of an amount equivalent to 80% of the LT fee for the item that bears the item number specified in column 3 opposite to the relevant matter.

- (2) In this rule, a reference to a column is a reference to a column in Part 3 of the Schedule.

- (3) In this rule—

LT fee (審裁處費用), in relation to an item, means a fee specified for the item in the Schedule to the LT Fees Rules.

8. e-fees in relation to proceedings under EA Regulation

- (1) The following e-fee is payable for a court-related matter described in column 2 (*relevant matter*)—
 - (a) during a period other than the concessionary period—the EA fee for the item that bears the item number specified in column 3 opposite to the relevant matter;
 - (b) during the concessionary period—a fee of an amount equivalent to 80% of the EA fee for the item that bears the item number specified in column 3 opposite to the relevant matter.

- (2) In this rule, a reference to a column is a reference to a column in Part 4 of the Schedule.

- (3) In this rule—

EA fee (地產代理費用), in relation to an item, means a fee specified for the item in Schedule 2 to the EA Regulation.

Part 4

Miscellaneous

9. **Rounding rule for e-fees payable during concessionary period**
- (1) A concessionary fee that is less than \$5 must be rounded to the nearest 10 cents.
 - (2) A concessionary fee that is \$5 or more but less than \$10 must be rounded to the nearest 50 cents.
 - (3) A concessionary fee that is \$10 or more but less than \$100 must be rounded to the nearest whole dollar.
 - (4) A concessionary fee that is \$100 or more but less than \$1,000 and is not a multiplier of \$5 must be rounded to the nearest multiplier of \$5.
 - (5) A concessionary fee that is \$1,000 or more but less than \$10,000 and is not a multiplier of \$10 must be rounded to the nearest multiplier of \$10.
 - (6) A concessionary fee that is \$10,000 or more but less than \$100,000 and is not a multiplier of \$50 must be rounded to the nearest multiplier of \$50.
 - (7) A concessionary fee that is \$100,000 or more and is not a multiplier of \$100 must be rounded to the nearest multiplier of \$100.
 - (8) In this rule—
concessionary fee (寬減費用) means the e-fee payable under rule 4(1)(b), 5(1)(b), 6(1)(b), 7(1)(b) or 8(1)(b).

10. **Specific fee payable instead of general fee**

If an e-fee is specified specifically for a court-related matter, that fee is payable in substitution for and not in addition to any other general e-fee that is also payable for the matter.

11. **Power of Registrar**

- (1) The Registrar may reduce, remit or defer payment of an e-fee as the Registrar considers appropriate in a particular case.
- (2) If the Registrar exercises the power under subrule (1), the Registrar must endorse on the relevant document a note of the reduction, remission or deferment and the reason for it.

Schedule

[rr. 4, 5, 7 & 8]

e-fees

Part 1

**Fees Specified or Described in Part 1 of Schedule to DC
Fees Rules**

Column 1	Column 2	Column 3
Item	Description	Corresponding item in Part 1 of Schedule to DC Fees Rules
1.	On sealing—	
	(a) a writ of summons (except a concurrent, renewed or amended writ), per writ	1(a)
	(b) an originating summons, per summons	1(b)
	(c) an originating ex parte application, per application	1(c)
	(d) any other originating document, per document	1(d)
2.	(a) Setting down a cause or issue for hearing	2(a)

Column 1	Column 2	Column 3
Item	Description	Corresponding item in Part 1 of Schedule to DC Fees Rules
	(b) Setting down a civil appeal, motion or summons for hearing	2(b)
	(c) Entering a reference for hearing of an assessment of damages by a judge or the Registrar	2(c)
3.	Copy of a document typed in the Registry and certifying same, per page	8(a)
4.	(a) Copy of a document obtained from an e-system	9(a)
	(b) Copy of a document made in the Registry and certification, per page	9(b)
5.	(a) Translation made in the Registry of a document from Chinese into English, or vice versa, including certificate, per page	10(a)
	(b) Transcription and translation made in the Registry from Chinese into English, or vice versa, of a tape or recording including certificate, per page	10(b)

Column 1	Column 2	Column 3
Item	Description	Corresponding item in Part 1 of Schedule to DC Fees Rules
6.	(a) Certifying translation made outside the Registry from Chinese into English, or vice versa, per page	11(a)
	(b) Certifying transcription made outside the Registry from Chinese into English, or vice versa, of a tape or recording, per page	11(b)
7.	Search in the Registry, for each document or file referred to or required	12
8.	On sealing—	
	(a) a warrant for arrest of a defendant or for the attachment of property before judgment, per warrant	16(a)
	(b) a writ of execution or writ of possession, per writ	16(b)
	(c) a prohibitory order, per order	16(c)
	(d) an order for the examination of a judgment debtor (or an officer of a judgment debtor), per order	16(d)
	(e) a prohibition order, per order	16(e)
9.	On the filing of a notice of commencement of taxation under	20

Column 1	Column 2	Column 3
Item	Description	Corresponding item in Part 1 of Schedule to DC Fees Rules
	Order 62, rule 21(1) of the RDC or on any assessment or determination of costs pursuant to any court order or Ordinance (except assessment under Order 62, rule 9 or 9A of the RDC), for every \$100 or fraction of \$100 of the amount claimed	
10.	Withdrawal of a bill of costs within 7 days after the application for setting down the taxation under Order 62, rule 21A(1) of the RDC is made	20a
11.	Authentication of a document by the Registrar	21
12.	On sealing a notice in Form No. 80 under Order 50, rule 11(2) of the RDC, per notice	22
13.	On sealing an injunction order undertaken before commencement of a cause, per order	23

Part 2

Fees Specified in Part 2 of Schedule to DC Fees Rules

Column 1	Column 2	Column 3
Item	Description	Corresponding item in Part 2 of Schedule to DC Fees Rules
1.	Copy of a document typed in the Registry and certifying same, per page	1(a)
2.	(a) Copy of a document obtained from an e-system	2(a)
	(b) Copy of a document made in the Registry and certification, per page	2(b)
3.	Search in the Registry, for each document or file referred to or required	3
4.	Authentication of a document by the Registrar	4

Part 3

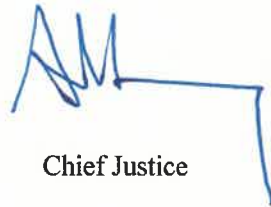
Fees Specified in Schedule to LT Fees Rules

Column 1	Column 2	Column 3
Item	Description	Corresponding item in Schedule to LT Fees Rules
1.	Registration of an award or order with the District Court	6

Part 4

Fees Specified in Schedule 2 to EA Regulation

Column 1	Column 2	Column 3
Item	Description	Corresponding item in Schedule 2 to EA Regulation
1.	Registration of a determination with the District Court	2
2.	Filing of notice of appeal in the District Court	3
3.	Copy of document in the register and certification for each page or portion of a page	4



Chief Justice

25 May 2021

Explanatory Note

Under section 29 of the Court Proceedings (Electronic Technology) Ordinance (Cap. 638), the Chief Justice is empowered to make rules, among other purposes, to—

- (a) provide for fees payable in respect of court-related matters that are carried out by an electronic mode and specified in the rules; and
 - (b) provide for fee concessions in respect of particular court-related matters for a specified period.
2. These Rules provide for the fees payable in respect of court-related matters carried out by means of an e-system in relation to the following proceedings in the District Court (*e-fees*)—
- (a) District Court civil proceedings;
 - (b) District Court criminal proceedings;
 - (c) proceedings under Part III of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7);
 - (d) Labour Tribunal proceedings; and
 - (e) proceedings under the Estate Agents (Registration of Determination and Appeal) Regulation (Cap. 511 sub. leg. E).
3. The Rules also provide for matters relating to the concessions for e-fees, including—
- (a) a concession of 20% for certain e-fees;
 - (b) a concessionary period of 5 years; and
 - (c) the rounding rules for the concessionary e-fees.

**Court Proceedings (Electronic Technology)
(Magistrates' Court) (Electronic Fees) Rules**

(Made by the Chief Justice under section 29 of the Court Proceedings
(Electronic Technology) Ordinance (Cap. 638))

Part 1**Preliminary****1. Commencement**

These Rules come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

2. Interpretation

In these Rules—

concessionary period (寬減期) means the period of 5 years beginning on the day on which these Rules come into operation;

court-related matter (法院相關事宜) means—

- (a) an act or matter that relates to a proceeding in the Magistrates' Court; or
- (b) a service, or other matter, made available or provided by the Magistrates' Court or a registry or an office of the Magistrates' Court;

e-fee (電子費用) means a fee that is payable under these Rules for a court-related matter that is carried out by means of an e-system;

Fees Regulations (《費用規例》) means the Magistrates (Fees) Regulations (Cap. 227 sub. leg. B);

magistrate (裁判官) has the meaning given by section 2 of the MO;
MO (《裁判官條例》) means the Magistrates Ordinance (Cap. 227).

Part 2

Application

3. Application

These Rules apply in relation to a court-related matter that is carried out by means of an e-system.

Part 3

e-fees Payable for Proceedings in Magistrates' Court

4. e-fees payable for Magistrates' Court proceedings

- (1) Subject to subrule (2), the following e-fee is payable for a court-related matter described in column 2 (*relevant matter*)—
 - (a) during a period other than the concessionary period—the MC fee for the item that bears the item number specified in column 3 opposite to the relevant matter;
 - (b) during the concessionary period—a fee of an amount equivalent to 80% of the MC fee for the item that bears the item number specified in column 3 opposite to the relevant matter.
- (2) No e-fee is payable for item 3(a) of Part 1 of the Schedule.
- (3) In this rule, a reference to a column is a reference to a column of Part 1 of the Schedule.
- (4) In this rule—

MC fee (裁判法院費用), in relation to an item, means a fee specified for the item in the scale of fees in regulation 2 of the Fees Regulations.

5. e-fees payable for appeal by way of case stated

- (1) The following e-fee is payable for a court-related matter described in column 2 (*relevant matter*)—
 - (a) during a period other than the concessionary period—the MO fee for the item that bears the item number specified in column 3 opposite to the relevant matter;

(b) during the concessionary period—a fee of an amount equivalent to 80% of the MO fee for the item that bears the item number specified in column 3 opposite to the relevant matter.

(2) In this rule, a reference to a column is a reference to a column of Part 2 of the Schedule.

(3) In this rule—

MO fee (裁判官條例費用), in relation to an item, means a fee specified for the item in section 110(4) of the MO.

6. e-fees payable for certificate of refusal to state a case

(1) The following e-fee is payable for a certificate of refusal to state a case under section 111 of the MO—

(a) during a period other than the concessionary period—a fee of an amount equivalent to the MO sum;

(b) during the concessionary period—a fee of an amount equivalent to 80% of the MO sum.

(2) In this rule—

MO sum (裁判官條例款項) means the sum specified in section 111 of the MO.

Part 4

Miscellaneous

7. Rounding rule for e-fees payable during concessionary period

(1) A concessionary fee that is less than \$5 must be rounded to the nearest 10 cents.

(2) A concessionary fee that is \$5 or more but less than \$10 must be rounded to the nearest 50 cents.

(3) A concessionary fee that is \$10 or more but less than \$100 must be rounded to the nearest whole dollar.

(4) A concessionary fee that is \$100 or more but less than \$1,000 and is not a multiplier of \$5 must be rounded to the nearest multiplier of \$5.

(5) A concessionary fee that is \$1,000 or more but less than \$10,000 and is not a multiplier of \$10 must be rounded to the nearest multiplier of \$10.

(6) A concessionary fee that is \$10,000 or more but less than \$100,000 and is not a multiplier of \$50 must be rounded to the nearest multiplier of \$50.

(7) A concessionary fee that is \$100,000 or more and is not a multiplier of \$100 must be rounded to the nearest multiplier of \$100.

(8) In this rule—

concessionary fee (寬減費用) means the e-fee payable under rule 4(1)(b), 5(1)(b) or 6(1)(b).

8. Specific fee payable instead of general fee

If an e-fee is specified specifically for a court-related matter, that fee is payable in substitution for and not in addition to any other general e-fee that is also payable for the matter.

Schedule

[rr. 4 & 5]

e-fees

Part 1

Fees Specified in Scale of Fees in Regulation 2 of Fees Regulations

Column 1	Column 2	Column 3
Item	Description	Corresponding item in Scale of Fees in regulation 2 of Fees Regulations
1.	For affixing the signature of a magistrate, with or without the magistrate's seal, to any statutory declaration or other document made or required for a purpose other than in or for a magisterial proceeding or matter exclusively within the duties of the office of a magistrate	1
2.	Typed copy of depositions, charges or documentary exhibits in summary cases, per page	2(a)

Court Proceedings (Electronic Technology) (Magistrates' Court) (Electronic Fees)
Rules

Schedule—Part 1

9

Column 1	Column 2	Column 3
Item	Description	Corresponding item in Scale of Fees in regulation 2 of Fees Regulations
3.	(a) Copy of a document obtained from an e-system	3(a)
	(b) Copy and certification, per page	3(b)
4.	(a) Translation made in the magistracy of a document from Chinese into English, or vice versa, including certificate, per page	4(a)
	(b) Transcription and translation made in the magistracy, from Chinese into English, or vice versa, of a tape or recording including certificate, per page	4(b)
5.	(a) Certifying translation made outside the magistracy, from Chinese into English, or vice versa, per page	5(a)
	(b) Certifying transcription made outside the magistracy, from Chinese into English, or vice versa, of a tape or recording, per page	5(b)

Court Proceedings (Electronic Technology) (Magistrates' Court) (Electronic Fees)
Rules

Schedule—Part 2

10

Column 1	Column 2	Column 3
Item	Description	Corresponding item in Scale of Fees in regulation 2 of Fees Regulations
6.	Search in the magistracy, for each document or file referred to or required	6

Part 2

Fees Specified in Section 110(4) of MO

Column 1	Column 2	Column 3
Item	Description	Corresponding item in section 110(4) of MO
1.	Recognizance	1



Chief Justice

25 May 2021

Explanatory Note

Under section 29 of the Court Proceedings (Electronic Technology) Ordinance (Cap. 638), the Chief Justice is empowered to make rules, among other purposes, to—

- (a) provide for fees payable in respect of court-related matters that are carried out by an electronic mode and specified in the rules; and
 - (b) provide for fee concessions in respect of particular court-related matters for a specified period.
2. These Rules provide for the fees payable in respect of court-related matters carried out by means of an e-system in relation to proceedings in the Magistrates' Court (*e-fees*).
3. These Rules also provide for matters relating to the concessions for e-fees, including—
 - (a) a concession of 20% for certain e-fees;
 - (b) a concessionary period of 5 years; and
 - (c) the rounding rules for the concessionary e-fees.

**Court Proceedings (Electronic Technology) Ordinance
(Commencement) Notice**

Under section 1(2) of the Court Proceedings (Electronic Technology) Ordinance (Cap. 638), I appoint 1 October 2021 as the day on which the Ordinance comes into operation.



Chief Justice

25 May 2021

Costs in Criminal Cases (Amendment) Rules 2021

(Made by the Chief Justice under section 22 of the Costs in Criminal Cases Ordinance (Cap. 492) with the approval of the Legislative Council)

1. Commencement

These Rules come into operation on 1 October 2021.

2. Costs in Criminal Cases Rules amended

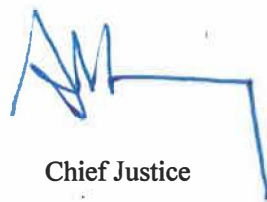
The Costs in Criminal Cases Rules (Cap. 492 sub. leg. A) are amended as set out in rule 3.

3. Rule 10 amended (fees)

Rule 10(2)(a)—

Repeal

“Civil Procedure”.



Chief Justice

25 May 2021

Explanatory Note

These Rules amend the reference to the title of the District Court Civil Procedure (Fees) Rules (Cap. 336 sub. leg. C) in rule 10(2)(a) of the Costs in Criminal Cases Rules (Cap. 492 sub. leg. A) in consequence of the amendment made to that title by the District Court Civil Procedure (Fees) (Amendment) Rules 2021.

District Court Civil Procedure (Fees) (Amendment) Rules 2021

(Made by the District Court Rules Committee under sections 72 and 87 of
the District Court Ordinance (Cap. 336))

1. Commencement

These Rules come into operation on 1 October 2021.

2. District Court Civil Procedure (Fees) Rules amended

The District Court Civil Procedure (Fees) Rules (Cap. 336 sub. leg. C) are amended as set out in rules 3 to 8.

3. Title amended

The title—

Repeal

“CIVIL PROCEDURE”.

4. Rule 1 amended (citation)

Rule 1—

Repeal

“Civil Procedure”.

5. Rule 1A added

After rule 1—

Add

“1A. Disapplication

These rules do not apply in relation to a type or description of proceedings in the Court if the fees payable in respect of that

type or description of proceedings are specified in any other enactment.”.

6. Rule 2 substituted

Rule 2—

Repeal the rule

Substitute

“2. Fees

(1) A fee specified in Part 1 of the Schedule is payable in respect of a proceeding (other than a criminal proceeding) in the Court.

(2) A fee specified in Part 2 of the Schedule is payable in respect of a criminal proceeding in the Court.”.

7. Rules 8 and 9 repealed

Rules 8 and 9—

Repeal the rules.

8. Schedule amended

(1) The Schedule—

Repeal

Substitute

“SCHEDULE [rules 2, 8 & 9]”

“Schedule

[rr. 2, 3, 4 & 6]

Fees**Part 1****Fees Payable in respect of Proceedings (other than Criminal Proceedings)**

- (2) The Schedule, Part 1, item 9(a)—

Repeal

“Photostatic copy”

Substitute

“Copy”.

- (3) The Schedule, Part 1, item 9(b)—

Repeal

“Photostatic copy”

Substitute

“Copy of a document made in the Registry”.

- (4) The Schedule, Part 1, item 9(c)—

Repeal

“Photostatic copy”

Substitute

“Copy”.

- (5) The Schedule, Chinese text, Part 1, item 21—

Repeal

“文件由司法常務官認證”

Substitute

“由司法常務官認證文件”.

- (6) At the end of the Schedule—

Add**“Part 2****Fees Payable in respect of Criminal Proceedings**

Item	Particular	Fee \$
1.	(a) Copy of a document typed in the Registry and certifying same, per page.....	36.00
	(b) Additional copies, per page.....	4.00
2.	(a) Copy of a document made in the Registry, per page	4.00
	(b) Copy of a document made in the Registry and certification, per page	5.50
	(c) Copy of a library book, per page.....	4.00
3.	Search in the Registry, for each document or file referred to or required	18.00
4.	Authentication of document by the Registrar	125.00”.

Made this 25th day of May 2021.



The Hon. Mr. Justice POON
Chief Judge of the High Court



H.H. Judge Justin KO



H.H. Judge Simon LEUNG



H.H. Judge Kent YEE



Simon LUI
Registrar, District Court



Hugh KAM



Amirali NASIR



Jenny FUNG

Explanatory Note

These Rules amend the District Court Civil Procedure (Fees) Rules (Cap. 336 sub. leg. C) (*principal Rules*) to—

- (a) expand the scope of the principal Rules to cover criminal proceedings in the District Court and amend the title of the principal Rules accordingly;
- (b) specify the fees payable in respect of criminal proceedings in the District Court; and
- (c) make certain minor amendments to the principal Rules.

Rules of the District Court (Amendment) Rules 2021

(Made by the District Court Rules Committee under section 72 of the District Court Ordinance (Cap. 336))

1. Commencement

These Rules come into operation on 1 October 2021.

2. Rules of the District Court amended

The Rules of the District Court (Cap. 336 sub. leg. H) are amended as set out in rules 3 and 4.

3. Order 65, rule 10 amended (service of process on Sunday)

Order 65, after rule 10(1)—

Add

“(1A) Paragraph (1) does not apply in relation to the service of any process under the Court Proceedings (Electronic Technology) (District Court Civil Proceedings) Rules.”.

4. Appendix A amended (forms)

(1) Appendix A, Form No. 14, under heading “*Directions for Acknowledgement of Service*”, after paragraph 1—

Add

“1A. However, a Defendant (or a Solicitor acting on behalf of a Defendant) who is a registered user or an Organization User account holder may send the Acknowledgment of Service to the Registry of the District Court by means of an e-system in accordance with the Court Proceedings (Electronic Technology) (District Court Civil Proceedings) Rules.

Note—

For the meaning of *Organization User account holder* and *registered user*, please see rule 2 of the Court Proceedings (Electronic Technology) (District Court Civil Proceedings) Rules.”.

(2) Appendix A, Form No. 14, under heading “**Notes for Guidance**”, paragraph 2—

Repeal

everything after “and a writ served”

Substitute

“by post or by insertion through the Defendant’s letter box, or by sending it by electronic transmission in accordance with the Court Proceedings (Electronic Technology) (District Court Civil Proceedings) Rules, is treated as having been served on the seventh day after the date of posting, insertion or sending by electronic transmission.]

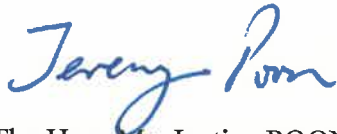
(*Note:* Not applicable if the defendant is a company served at its registered office.)”.

(3) Appendix A, Form No. 14, under heading “**Notes for Guidance**”, after paragraph 7—

Add

“7A. A Defendant (or a Solicitor acting on behalf of a Defendant) who has received a printout of a Writ of Summons issued by the District Court in electronic form may contact the Registry of the District Court to ascertain whether the Writ of Summons had been issued by quoting its document reference number. For details, please refer to the administrative instructions issued by the Judiciary Administrator.”.

Made this 25th day of May 2021.



The Hon. Mr. Justice POON
Chief Judge of the High Court



H.H. Judge Justin KO



H.H. Judge Simon LEUNG



H.H. Judge Kent YEE



Simon LUI
Registrar, District Court



Hugh KAM



Amirali NASIR



Jenny FUNG

Explanatory Note

The Court Proceedings (Electronic Technology) (District Court Civil Proceedings) Rules (*Electronic Rules*) authorize the use of an e-system for certain civil proceedings in the District Court and prescribe the practice and procedure for, among other things, using electronic technology for documents that are sent to the District Court in electronic form by means of an e-system and electronic service of documents.

2. These Rules consequentially amend—
- (a) Order 65, rule 10 of the Rules of the District Court (Cap. 336 sub. leg. H) (*RDC*) to enable process to be served on a Sunday if it is served under the Electronic Rules; and
 - (b) the Directions for Acknowledgement of Service and Notes for Guidance attached to Form No. 14 (Acknowledgment of Service of Writ of Summons) in Appendix A of the RDC.

Court Proceedings (Electronic Technology) Ordinance

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 20 OF 2020



Carrie LAM
Chief Executive
23 July 2020

An Ordinance to provide for the use of electronic technology in relation to proceedings in a court (which includes specified tribunals) and other court-related purposes; to enable the phased implementation of the use of electronic technology in relation to court proceedings; to enable fees to be provided for in respect of the use of electronic technology in court-related matters; and to provide for related matters.

[]

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Court Proceedings (Electronic Technology) Ordinance.
- (2) This Ordinance comes into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

2. Interpretation

In this Ordinance—

court (法院) means—

- (a) the Court of Final Appeal;
- (b) the Court of Appeal;
- (c) the Court of First Instance;
- (d) the District Court;
- (e) a Magistrates' Court;
- (f) the Coroner's Court; or
- (g) a tribunal specified by rules made under section 6(b);

court office (法院辦事處), in relation to a court, means a registry of the court or an office of the court;

document (文件) means anything in which information of any description is recorded;

e-Court (電子法院) means a court specified by rules made under section 6(a);

electronic form (電子形式) means in the form of an electronic record;

electronic record (電子紀錄) means a record that—

- (a) is generated in a digital form by an information system;
- (b) can be transmitted—
 - (i) within an information system; or
 - (ii) from one information system to another; and
- (c) can be stored in an information system or other medium;

e-proceeding (電子程序)—see section 11(2);

e-system (電子系統) means the information system designated under section 7;

implementation notice (實施公告) means a notice published under section 32(1);

information system (資訊系統) has the meaning given by section 2(1) of the Electronic Transactions Ordinance (Cap. 553).

3. **References to judge or judicial officer**

In this Ordinance, a reference to a judge or a judicial officer—

- (a) is a reference to a judicial officer as defined by section 2 of the Judicial Officers Recommendation Commission Ordinance (Cap. 92); and
 - (b) includes a person appointed as a deputy or temporary judicial officer to perform the duties of, or to act otherwise in the office of, a judicial office as defined by that section.
-

Part 2

Application and Effect of Ordinance

4. Application to Government

This Ordinance applies to the Government.

5. Section 9 of Electronic Transactions Ordinance not affected

Nothing in this Ordinance affects the application of section 9 of the Electronic Transactions Ordinance (Cap. 553) in relation to a legal proceeding.

Part 3

Specification of e-Courts

6. Chief Justice may by rules specify e-Courts

The Chief Justice may make rules—

- (a) to specify the courts by or in relation to which electronic technology may be used under Part 5;
 - (b) to specify the tribunals for the purposes of paragraph (g) of the definition of *court* in section 2; and
 - (c) to provide for incidental or supplemental matters (including transitional matters) relating to a specification under paragraph (a) or (b).
-

Part 4

Information System to Facilitate Use of Electronic Technology

7. Chief Justice may designate e-system

The Chief Justice may designate an information system to facilitate the use of electronic technology—

- (a) in relation to proceedings;
- (b) for other court-related purposes; and
- (c) without limiting paragraph (a) or (b), for the particular purposes set out in section 8.

8. Particular purposes for which e-system may be used

- (1) An e-system may be used by a court—
 - (a) to create, issue, send or receive documents in electronic form in relation to a proceeding;
 - (b) to compile, record, store or otherwise process information or documents in electronic form relating to a proceeding; or
 - (c) to allow access to information or documents relating to a proceeding.
- (2) An e-system may be used by a person—
 - (a) to send documents in electronic form to a court in relation to a proceeding; or
 - (b) to otherwise communicate in electronic form with a court before which a proceeding is being taken.
- (3) An e-system may be used to make electronic payments.

- (4) An e-system may be used for any other purpose specified by rules made under section 26(2)(c).
- (5) In this section—
- court*** (法院) includes—
- (a) a judge and a judicial officer; and
 - (b) a court office;
- send*** (送交), in relation to a document, means file, lodge, give, notify, serve, deliver, submit, furnish or any other expression that signifies or suggests conveying the document.
-

Part 5

Use of Electronic Technology in Courts

Division 1—Interpretation and Application of Part 5

Subdivision 1—Interpretation

9. Interpretation of Part 5

In this Part—

at the relevant time (在有關時間), in relation to an act done in electronic form or electronically for the purposes of this Part, means at the time of doing the act;

direction of a court (法院指示) means a direction given by a court, a judge or a judicial officer;

e-practice direction (電子實務指示) means a direction that—

- (a) is issued by the Chief Justice as to the practice and procedure of a court; and
- (b) relates to the use of electronic technology under this Ordinance;

e-rules (電子規則) means rules made under section 26 or 27;

written law (成文法律) means an Ordinance or subsidiary legislation and includes any practice direction, except an e-practice direction, that provides for the practice and procedure of a court.

10. References to courts or e-Courts in relation to documents

In this Part, a reference to—

- (a) a document created, issued or sent by a court or an e-Court includes a document created, issued or sent by a judge or a judicial officer or a court office;
- (b) a document sent to a court or an e-Court includes a document sent to a judge or a judicial officer or a court office; and
- (c) a document, file or record kept or maintained by a court or an e-Court includes a document, file or record kept or maintained by a court office.

Subdivision 2—Application

11. Application of Part 5

- (1) This Part applies only in relation to an e-proceeding.
- (2) A proceeding is an e-proceeding—
 - (a) if—
 - (i) an implementation notice is published stating that the use of electronic technology has been implemented for all proceedings in an e-Court; and
 - (ii) the proceeding is in that e-Court;
 - (b) if—
 - (i) an implementation notice is published stating that the use of electronic technology has been implemented for a type or description of proceeding in an e-Court; and
 - (ii) the proceeding is in that e-Court and is of that type or description; or

- (c) if—
 - (i) an implementation notice is published stating that the use of electronic technology has been implemented for a type or description of proceeding in an e-Court at a venue; and
 - (ii) the proceeding is in that e-Court at the venue and is of that type or description.

12. Application of provisions and directions for sending or serving documents in writing

- (1) A provision in this Part that applies in relation to a provision of written law or a direction of a court that requires or permits a document sent by a court to be in writing applies whether the provision of written law or direction—
 - (a) uses “send”, “give”, “notify”, “serve”, “deliver” (including grammatical variations and cognate expressions) or any other expression that signifies conveying a document; or
 - (b) otherwise suggests the conveying of a document by a court.
- (2) A provision in this Part that applies in relation to a provision of written law or a direction of a court that requires or permits a document sent to a court to be in writing applies whether the provision of written law or direction—
 - (a) uses “file”, “lodge”, “send”, “give”, “notify”, “serve”, “deliver”, “submit”, “furnish” (including grammatical variations and cognate expressions) or any other expression that signifies conveying a document; or
 - (b) otherwise suggests the conveying of a document to a court.

- (3) A provision in this Part that applies in relation to a provision of written law or a direction of a court that requires or permits a document served by a person on another person to be in writing applies whether the provision of written law or direction—
- (a) uses “serve”, “send”, “give”, “deliver”, “furnish” (including grammatical variations and cognate expressions) or any other expression that signifies service; or
 - (b) otherwise suggests the service of a document by a person on another person.

Division 2—Documents in Electronic Form

Subdivision 1—Documents Created, Issued or Sent by Means of e-system

13. Documents created, issued or sent by courts

- (1) This section applies in relation to a provision of written law or a direction of a court that—
- (a) requires a document created, issued or sent by a court to be in writing; or
 - (b) permits a document created, issued or sent by a court to be in writing.
- (2) In relation to an e-proceeding—
- (a) for subsection (1)(a)—the requirement is met if—
 - (i) the document is created, issued or sent by an e-Court in electronic form by means of an e-system; and

- (ii) at the relevant time it was reasonable to expect that the information in the document in electronic form would be accessible so as to be usable for subsequent reference; and
- (b) for subsection (1)(b)—the document may be created, issued or sent by an e-Court in electronic form if—
 - (i) it is created, issued or sent by means of an e-system; and
 - (ii) at the relevant time it was reasonable to expect that the information in the document in electronic form would be accessible so as to be usable for subsequent reference.

14. Documents sent to courts

- (1) This section applies in relation to a provision of written law or a direction of a court that—
 - (a) requires a document sent to a court to be in writing; or
 - (b) permits a document sent to a court to be in writing.
- (2) In relation to an e-proceeding—
 - (a) for subsection (1)(a)—the requirement is met if—
 - (i) the document is sent to an e-Court in electronic form by means of an e-system in accordance with any applicable e-rules and e-practice directions; and
 - (ii) at the relevant time it was reasonable to expect that the information in the document in electronic form would be accessible so as to be usable for subsequent reference; and
 - (b) for subsection (1)(b)—the document may be sent to an e-Court in electronic form if—

- (i) it is sent by means of an e-system in accordance with any applicable e-rules and e-practice directions; and
- (ii) at the relevant time it was reasonable to expect that the information in the document in electronic form would be accessible so as to be usable for subsequent reference.

Subdivision 2—Documents with Endorsements etc.

15. Endorsements, attachments, etc. in electronic form

- (1) This section applies in relation to a provision of written law or a direction of a court that—
 - (a) requires information to be endorsed or recorded on, or attached or annexed to, a document; or
 - (b) permits information to be endorsed or recorded on, or attached or annexed to, a document.
- (2) If the document is used in an e-proceeding and is in electronic form—
 - (a) for subsection (1)(a)—the requirement is met if—
 - (i) the information is incorporated in electronic form into the document or associated electronically with it in accordance with any applicable e-rules and e-practice directions; and
 - (ii) at the relevant time it was reasonable to expect that the information so incorporated or associated would be accessible so as to be usable for subsequent reference; and
 - (b) for subsection (1)(b)—the information may be incorporated in electronic form into the document or associated electronically with it if—

- (i) it is so incorporated or associated in accordance with any applicable e-rules and e-practice directions; and
 - (ii) at the relevant time it was reasonable to expect that the information so incorporated or associated would be accessible so as to be usable for subsequent reference.
- (3) In this section—
- information** (資料), in relation to a document, includes a note, certificate, statement, acknowledgment, record, matter and another document.

Division 3—Electronic Service of Documents

16. Service between parties

- (1) This section applies in relation to a provision of written law or a direction of a court that—
 - (a) requires a document served by a person on another person to be in writing; or
 - (b) permits a document served by a person on another person to be in writing.
- (2) In relation to an e-proceeding—
 - (a) for subsection (1)(a)—the requirement is met if—
 - (i) the document is served in electronic form in accordance with any applicable e-rules and e-practice directions; and
 - (ii) at the relevant time it was reasonable to expect that the information in the document in electronic form would be accessible so as to be usable for subsequent reference; and

- (b) for subsection (1)(b)—the document may be served in electronic form if—
 - (i) it is served in accordance with any applicable e-rules and e-practice directions; and
 - (ii) at the relevant time it was reasonable to expect that the information in the document in electronic form would be accessible so as to be usable for subsequent reference.
- (3) To avoid doubt, this section does not apply in relation to a provision of written law or a direction of a court that requires or permits a document served by or on a court to be in writing.

Division 4—Electronic Authentication of Documents

Subdivision 1—Authentication of Documents Originating from Courts

- 17. Authentication of documents created, issued or sent by courts**
- (1) This section applies in relation to a document created, issued or sent by a court that a provision of written law or a direction of a court—
 - (a) requires to be signed, sealed or certified; or
 - (b) permits to be signed, sealed or certified.
 - (2) If the document is created, issued or sent by an e-Court in electronic form by means of an e-system in relation to an e-proceeding—
 - (a) for subsection (1)(a)—the requirement is met if the document is authenticated in accordance with any applicable e-rules and e-practice directions; and

- (b) for subsection (1)(b)—the document may be authenticated in accordance with any applicable e-rules and e-practice directions.

Subdivision 2—Authentication of Documents Sent to Courts

18. Authentication of documents sent to courts

- (1) This section applies in relation to a document sent to a court that a provision of written law or a direction of a court—
 - (a) requires to be signed; or
 - (b) permits to be signed.
- (2) If the document is sent to an e-Court in electronic form by means of an e-system in relation to an e-proceeding—
 - (a) for subsection (1)(a)—the requirement is met if the document is authenticated in accordance with any applicable e-rules and e-practice directions; and
 - (b) for subsection (1)(b)—the document may be authenticated in accordance with any applicable e-rules and e-practice directions.

Subdivision 3—Authentication of Documents Served by or on Parties

19. Authentication of documents served by or on parties

- (1) This section applies in relation to a document served by a person on another person that a provision of written law or a direction of a court—
 - (a) requires to be signed; or
 - (b) permits to be signed.

- (2) If the document is served in electronic form in relation to an e-proceeding—
 - (a) for subsection (1)(a)—the requirement is met if the document is authenticated in accordance with any applicable e-rules and e-practice directions; and
 - (b) for subsection (1)(b)—the document may be authenticated in accordance with any applicable e-rules and e-practice directions.

Division 5—Electronic Copies of Original Documents etc. and Electronic Production of Documents

20. Electronic copies of original or certified documents

- (1) This section applies in relation to a provision of written law or a direction of a court that—
 - (a) requires an original or a certified document to be sent to a court; or
 - (b) permits an original or a certified document to be sent to a court.
- (2) In relation to an e-proceeding—
 - (a) for subsection (1)(a)—the requirement is met if—
 - (i) a copy of the document is sent to an e-Court in electronic form by means of an e-system in accordance with any applicable e-rules and e-practice directions; and
 - (ii) at the relevant time it was reasonable to expect that the information in the copy in electronic form would be accessible so as to be usable for subsequent reference; and
 - (b) for subsection (1)(b)—a copy of the document may be sent to an e-Court in electronic form if—

- (i) it is sent by means of an e-system in accordance with any applicable e-rules and e-practice directions; and
- (ii) at the relevant time it was reasonable to expect that the information in the copy in electronic form would be accessible so as to be usable for subsequent reference.

21. Electronic production of documents

- (1) This section applies in relation to a provision of written law or a direction of a court that—
 - (a) requires a document to be conveyed by producing it as a paper document; or
 - (b) permits a document to be conveyed by producing it as a paper document.
- (2) In relation to an e-proceeding—
 - (a) for subsection (1)(a)—the requirement is met if—
 - (i) a copy of the document is sent to an e-Court in electronic form by means of an e-system in accordance with any applicable e-rules and e-practice directions; and
 - (ii) at the relevant time it was reasonable to expect that the information in the copy in electronic form would be accessible so as to be usable for subsequent reference; and
 - (b) for subsection (1)(b)—a copy of the document may be sent to an e-Court in electronic form if—
 - (i) it is sent by means of an e-system in accordance with any applicable e-rules and e-practice directions; and

- (ii) at the relevant time it was reasonable to expect that the information in the copy in electronic form would be accessible so as to be usable for subsequent reference.

Division 6—Printouts of Documents

22. Use of printouts of documents issued or sent by courts in electronic form

- (1) This section applies if—
 - (a) a provision of written law or a direction of a court requires or permits a document issued or sent by a court to be in writing; and
 - (b) an e-Court, in reliance on this Part, issues or sends the document in electronic form by means of an e-system (*electronic version*).
- (2) In relation to an e-proceeding, a printout produced from the electronic version in accordance with any applicable e-rules and e-practice directions—
 - (a) may be used for any purpose for which the document or a copy of it is required or permitted to be used under a provision of written law or a direction of a court; and
 - (b) has the same legal effect as the original of the document or a copy of it (as the case requires).
- (3) In this section—
printout (打印本) includes a copy of a printout.

Division 7—Records etc. of Courts in Electronic Form

23. Keeping or maintaining records etc.

- (1) This section applies in relation to a provision of written law or a direction of a court that—
 - (a) requires—
 - (i) a document, file or record kept or maintained by a court to be in writing; or
 - (ii) a record made by a court to be in writing; or
 - (b) permits—
 - (i) a document, file or record kept or maintained by a court to be in writing; or
 - (ii) a record made by a court to be in writing.
 - (2) In relation to an e-Court—
 - (a) for subsection (1)(a)—the requirement is met if the document, file or record is kept or maintained, or the record is made, in electronic form; and
 - (b) for subsection (1)(b)—the document, file or record may be kept or maintained, or the record may be made, in electronic form.
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Part 6

Disallowing Use of e-system

24. Court may disallow use of e-system for sending documents

- (1) In an e-proceeding, the court may—
 - (a) give a direction disallowing the use of an e-system by a person for sending any document to the court (except for documents already sent), in relation to—
 - (i) the whole proceeding; or
 - (ii) a particular procedure; and
 - (b) give any other direction that the court considers necessary because of a direction under paragraph (a).
 - (2) In exercising a power under subsection (1), the court may have regard to—
 - (a) the nature of the proceeding or procedure;
 - (b) the conduct of a party; or
 - (c) any other factor that the court considers relevant.
-

Part 7

Effect of Things Done Electronically

25. Effect of things done electronically

- (1) If, in reliance on Part 5, an act is done in electronic form or electronically, when it would otherwise be required or permitted to have been done using or with respect to a paper document, the doing of that act in electronic form or electronically has the same effect as if that act had been done using or with respect to a paper document.
 - (2) If, in reliance on Part 5, something takes an electronic form, when it would otherwise be required or permitted to be in the form of a paper document, that thing has the same effect as if it were a paper document.
 - (3) A document that is authenticated in accordance with section 17 has the same effect as a document duly signed, sealed or certified.
 - (4) A document that is authenticated in accordance with section 18 or 19 has the same effect as a document duly signed.
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Part 8

Rules, Implementation Notices and Administrative Instructions, for Use of Electronic Technology

Division 1—Rules

Subdivision 1—Rules for Practice and Procedure for Use of Electronic Technology

26. Rules for use of electronic technology

- (1) The Chief Justice may make rules—
 - (a) to regulate or prescribe the practice and procedure to be followed in the use of electronic technology under Part 5; and
 - (b) without limiting paragraph (a), for the particular matters set out in this section.
- (2) Rules made under this section may, in relation to an e-system—
 - (a) authorize its use by or in relation to an e-Court;
 - (b) authorize its use for a type or description of proceeding that—
 - (i) is within the jurisdiction of an e-Court; and
 - (ii) is specified in the rules;
 - (c) specify purposes other than those set out in section 8 for which it may be used;
 - (d) specify the class or description of persons who may use it; and

- (e) provide for registration as a user or any other arrangement to use it for certain purposes relating to a proceeding.
- (3) Rules made under this section may also—
- (a) specify a type or description of proceeding, or matters of a confidential nature, in relation to which electronic technology may not be used for a purpose under Part 5;
 - (b) specify a type or description of document that is required to be in the form of a paper document, whether or not it is used in electronic form in a proceeding;
 - (c) provide for the conversion of documents in electronic form into paper documents or paper documents into electronic form for any purpose relating to a proceeding;
 - (d) provide for anything that by this Ordinance is required to or may be done in accordance with the rules;
 - (e) provide for any matter relating to the carrying out of an act by an e-Court under Part 5;
 - (f) provide for any matter relating to electronic payments;
 - (g) provide for transitional matters relating to an authorization under subsection (2)(a) or (b); and
 - (h) contain incidental or supplemental provisions for the better carrying out of the provisions of this Ordinance.

27. Additional rules for use of electronic technology

- (1) A power to make rules of court under an Ordinance to provide for the practice and procedure of a court includes, in relation to an e-Court, a power to make rules—
 - (a) to provide for the use of electronic technology in proceedings governed by those rules (*Ordinance-specific rules*); and
 - (b) without limiting paragraph (a), to provide for anything that may be done in accordance with rules made under section 26.
- (2) Rules made under subsection (1) may supplement or depart from rules made under section 26 to suit the nature or type of proceedings governed by the Ordinance-specific rules.

Subdivision 2—Rules to Provide for Fees for Use of Electronic Mode

28. Interpretation of Subdivision 2

In this Subdivision—

court-related matter (法院相關事宜) means—

- (a) an act or matter that relates to a proceeding in a court; or
- (b) a service, or other matter, made available or provided by a court or court office;

e-fee (電子費用) means a fee that is payable under the e-fee rules in respect of a court-related matter that is carried out by an electronic mode;

e-fee rules (電子費用規則) means rules made under section 29;

electronic mode (電子模式) means—

- (a) an e-system; or
- (b) another electronic means;

external enactment (外在成文法則) means an enactment other than this Ordinance;

external fee (外在費用) means a fee that is payable under an external enactment in respect of a court-related matter;

external fee item (外在費用項目), in relation to an external fee, means the description of the court-related matter in respect of which the external fee is payable.

29. Power to provide for fees for use of electronic mode in court-related matters

- (1) The Chief Justice may make rules to provide for fees payable in respect of court-related matters that—
 - (a) are carried out by an electronic mode; and
 - (b) are specified in the rules.
- (2) Rules made under subsection (1) may provide for fee concessions in respect of particular court-related matters.
- (3) Rules made under subsection (1) may, in respect of—
 - (a) a court-related matter for which an external fee is payable—provide for an e-fee—
 - (i) by reference to the external fee or the relevant external fee item; or
 - (ii) by reference to the external fee and by adapting the relevant external fee item to suit an electronic mode;

- (b) a court-related matter for which no external fee is payable—specify an e-fee; or
 - (c) a court-related matter—provide that the fee payable is zero.
- (4) Rules made under this section that provide for fee concessions may—
- (a) provide that the fee concessions apply only during a period specified in the rules; and
 - (b) specify different periods for different court-related matters.
- (5) Rules made under this section may provide for transitional matters relating to the application of e-fees to court-related matters.

30. Restrictions on application of e-fees to court-related matters

The e-fee rules may restrict the application of the e-fees (generally or specifically) to a court-related matter by reference to one or more of the following conditions or matters—

- (a) the use of an e-system for carrying out the court-related matter;
- (b) the availability of facilities at, or the capacity of, the relevant court or court office to carry out the court-related matter by an electronic mode;
- (c) any other factor specified in the e-fee rules that may affect the carrying out of the court-related matter by an electronic mode.

31. Effect of payment of e-fees and of power to provide for e-fees

- (1) If an e-fee is provided for in respect of a court-related matter by reference to an external fee or an external fee item (adapted or otherwise), the payment of the e-fee for

the court-related matter has the same effect as the payment of the external fee for that court-related matter.

- (2) To avoid doubt, nothing in this Subdivision affects—
 - (a) any power or authority in or under an external enactment to provide for fees payable in respect of a court-related matter; or
 - (b) the application of an external fee to a court-related matter—
 - (i) that is not specified under section 29 (whether or not carried out by an electronic mode); or
 - (ii) to which the application of an e-fee is restricted under section 30.

Division 2—Implementation Notices

32. Implementation notices

- (1) The Chief Justice may provide for the phased implementation of the use of electronic technology in e-Courts and court offices—
 - (a) by notice published in the Gazette; and
 - (b) in accordance with this section.
- (2) The Chief Justice may, in an implementation notice, specify the date with effect from which electronic technology may be used for a purpose under Part 5 in relation to—
 - (a) a particular e-Court (whether or not at a particular venue); or
 - (b) a type or description of proceeding in an e-Court (whether or not at a particular venue) for which the use of an e-system has been authorized by rules made under section 26(2)(b).

- (3) The Chief Justice may specify different dates under subsection (2)(b) for proceedings of different types or descriptions or for different venues.
- (4) If the Chief Justice has, in an implementation notice, specified a date—
 - (a) for a type or description of proceeding and the venue for it, with effect from that date, the use of electronic technology is implemented for—
 - (i) that type or description of proceeding;
 - (ii) the venue for the proceeding; and
 - (iii) subject to subsection (5), the relevant court office; or
 - (b) for a type or description of proceeding (without a reference to a venue), with effect from that date, the use of electronic technology is implemented for—
 - (i) that type or description of proceeding; and
 - (ii) subject to subsection (5), the relevant court office.
- (5) Without limiting subsection (4)(a) or (b), the Chief Justice may, in an implementation notice, specify a date—
 - (a) with effect from which the use of electronic technology is implemented for a court office; and
 - (b) which is different from the date specified for the e-Court concerned.
- (6) An implementation notice is not subsidiary legislation.

Division 3—Administrative Instructions

33. Administrative instructions by Judiciary Administrator

- (1) The Judiciary Administrator may issue instructions of an administrative nature relating to the use of an e-system.
- (2) Without limiting subsection (1), administrative instructions may specify—
 - (a) for certain purposes relating to a proceeding, matters relating to registration as a user or any other arrangement referred to in section 26(2)(e), including—
 - (i) persons who are eligible to register;
 - (ii) how to register; and
 - (iii) administrative and organizational details relating to the arrangements;
 - (b) technical matters relating to the use of an e-system, including—
 - (i) the computer hardware, software and other technical requirements for using an e-system;
 - (ii) the format and way in which documents are to be sent to the court under section 14; and
 - (iii) other technical requirements to which those documents must conform; and
 - (c) matters relating to electronic payments.
- (3) The Judiciary Administrator—
 - (a) must publish any administrative instructions; and
 - (b) may decide how and where to publish them.

Part 9

Savings and Transitional Arrangements

34. Interpretation of Part 9

In this Part—

commencement date (實施日期) means the date on which Part 5 comes into operation;

existing system (現行系統) means any electronic means other than an e-system;

relevant date (有關日期), in relation to a particular section 8 purpose, means the date specified under section 35(3) for that purpose;

section 8 purpose (第8條用途) means a purpose for which an e-system may be used under section 8;

transitional period (過渡期), in relation to a particular section 8 purpose, means the period beginning on the commencement date and ending on the relevant date.

35. Continued use of existing systems during transitional period

- (1) If, immediately before the commencement date, an existing system was used for a section 8 purpose, despite anything in this Ordinance, during the transitional period, the existing system may continue to be used for that purpose.
- (2) Anything that is done by means of an existing system during the transitional period pursuant to subsection (1) has the same effect as if it were done by means of an e-system.
- (3) In relation to a section 8 purpose, the Chief Justice may, by notice published in the Gazette—

- (a) specify a date after which an existing system is not to be used for that purpose; and
 - (b) under paragraph (a), specify different dates for different purposes.
- (4) A notice under subsection (3)—
- (a) may include details that relate to discontinuing the use of an existing system for the purpose concerned; and
 - (b) is not subsidiary legislation.