

LEGISLATIVE COUNCIL BRIEF

Buildings Ordinance
(Chapter 123)

**BUILDING (ADMINISTRATION)
(AMENDMENT) REGULATION 2021**

**BUILDING (MINOR WORKS)
(AMENDMENT) (NO. 2) REGULATION 2021**

**BUILDING (INSPECTION AND REPAIR)
(AMENDMENT) REGULATION 2021**

**ELECTRONIC TRANSACTIONS ORDINANCE
(AMENDMENT OF SCHEDULE 3) (NO. 2) ORDER 2021**

**ELECTRONIC TRANSACTIONS (EXCLUSION)
(AMENDMENT) (NO. 2) ORDER 2021**

INTRODUCTION

In exercise of the power conferred by section 38 of the Buildings Ordinance (Cap. 123) (*BO*), the Secretary for Development (*SDEV*) has made the following three pieces of subsidiary legislation for the implementation of electronic submission and processing of plans, documents and applications under the BO –

Annex A

(a) the Building (Administration) (Amendment) Regulation 2021 (*B(A)(A)R 2021*) (at Annex A);

Annex B

(b) the Building (Minor Works) (Amendment) (No. 2) Regulation 2021 (*B(MW)(A)(No. 2)R 2021*) (at Annex B); and

Annex C

(c) the Building (Inspection and Repair) (Amendment) Regulation 2021 (*B(I&R)(A)R 2021*) (at Annex C).

Annex D

2. In parallel, the Secretary for Innovation and Technology has made the Electronic Transactions Ordinance (Amendment of Schedule 3) (No. 2) Order 2021 (*ETO(A)(No. 2)O 2021*) set out at Annex D pursuant to section 50 of the Electronic Transactions Ordinance (Cap. 553) (*ETO*) to amend Schedule 3 to the ETO by adding certain provisions under the BO and its subsidiary legislation to Schedule 3 to the ETO, and the Permanent Secretary for Innovation and Technology has made the Electronic Transactions (Exclusion) (Amendment) (No. 2) Order 2021 (*ET(E)(A)(No. 2)O 2021*) set out at Annex E pursuant to section 11(1) of the ETO to remove certain exclusions from the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) (*ET(E)O*).

Annex E

BACKGROUND AND JUSTIFICATION

3. At present, any person who intends to carry out building works or street works under the BO is required to appoint registered building professionals (*RBP*)¹ to prepare and submit plans and documents for the approval of the Building Authority (*BA*). The submission of plans and documents in relation to building works or street works and other applications under the existing BO framework is mainly paper-based. The RBPs have to submit specified forms and/or multiple copies of the plans and documents in hard copies and post or deliver them to BA's office during office hours.

4. Upon receipt of these hard copies, the Buildings Department (*BD*), as the central clearing house to process all building plan submissions from the private sector through the Centralised Processing System (*CPS*)², would disseminate them to the relevant departments and organisations (*CPS participants*) for processing. Due to the involvement of voluminous submissions and complex plans, it would be difficult to handle

¹ Namely, authorised persons, registered structural engineers and registered geotechnical engineers registered under the BO.

² BD operates CPS for building plans submitted under the BO to ensure that all relevant government departments and organisations are consulted and their comments on private development proposals are collated by BD within the statutory time limits allowed for processing building plans. There are over 30 government departments/organisations involved in the CPS and the number of hard copies required would depend on the types of submissions.

the plans and documents submitted electronically without a proper information technology infrastructure in place.

5. With the support from the Legislative Council Panel on Development (**Panel**)³, the Finance Committee approved the funding of \$214.39 million on 1 February 2019 [vide FC Paper No. FCR(2018-19)78] for the development of the Electronic Submission Hub (**ESH**). The development of the ESH is underway and we plan to launch the first stage of the ESH on 31 March 2022 as scheduled, with full implementation⁴ by Q2 of 2025. The purpose of the ESH is to provide a digital platform allowing the submission and processing of plans, documents and applications under the BO and its subsidiary legislation electronically, as an alternative to the current paper-based system.

CURRENT STATUTORY PROVISIONS AND REQUIREMENTS FOR PAPER AND ELECTRONIC TRANSACTIONS

6. The Building (Administration) Regulations (Cap. 123 sub. leg. A) (**B(A)R**), the Building (Minor Works) Regulation (Cap. 123 sub. leg. N) (**B(MW)R**) and the Building (Inspection and Repair) Regulation (Cap. 123 sub. leg. P) (**B(I&R)R**) contain provisions which govern the manner and format in which documents may be sent to or approved by the BA on a paper-based system.

7. The ETO provides for a generic framework for conducting electronic transactions and gives electronic records and electronic signatures (including digital signatures) used in electronic transactions the same legal status as that of their paper-based counterparts. Certain provisions of the BO and its subsidiary legislation are now excluded from the application of sections 5 and 6 of the ETO⁵ by virtue of Schedules 1

³ The Panel supported the development of the ESH on the meeting held on 19 December 2018 [vide LC Paper No. CB(1)323/18-19(07)].

⁴ The ESH will be implemented in three stages: Stage 1 on 31 March 2022; Stage 2 in Q4 of 2023; and Stage 3 in Q2 of 2025 tentatively.

⁵ Section 5 of the ETO allows the use of an electronic record to satisfy a rule of law that requires or permits any information to be given in writing. Section 6 of the ETO allows the use of an electronic signature or digital signature to satisfy a rule of law that requires a signature.

and 2 to the ET(E)O respectively. Further, section 5A(1) of the ETO provides that service of a document specified in Schedule 3 to the ETO in the form of an electronic record is deemed to satisfy the requirement on personal service or by post. Currently, no provision under the BO or its subsidiary legislation is included in Schedule 3 to the ETO.

PROPOSED LEGISLATIVE AMENDMENTS

8. To enable the implementation of the electronic submission under the BO progressively, we propose to amend the relevant provisions, which currently focus on paper-based transactions, in the B(A)R, the B(MW)R and the B(I&R)R under the BO, as well as Schedule 3 to the ETO and the ET(E)O, and include provisions allowing for the specification of different commencement dates to accord with the staged implementation of the ESH.

B(A)(A)R 2021

9. The main purpose of the B(A)(A)R 2021 (Annex A) is to amend the B(A)R so that sections 5, 5A and 6 of the ETO are to apply, in three stages, in relation to the documents prescribed by regulations 8, 9 or 33(1) of the B(A)R (*building documents*). The main provisions of the B(A)(A)R 2021 are as follows –

- (a) the commencement provision that provides for the commencement dates of different Parts of the B(A)(A)R 2021 for the implementation of the application of sections 5, 5A and 6 of the ETO to the relevant building documents;
- (b) addition of new provisions to provide for certain building documents to be excluded from the application of sections 5, 5A and 6 of the ETO in stage 1 and/or stage 2 until the ESH is in full implementation;
- (c) substitutes a new provision for regulation 11 of the B(A)R so that a plan or a related document needs to be submitted in duplicable only if it is submitted in hard copy form;

- (d) amendment to regulation 14 of the B(A)R so that a plan needs to be drawn or reproduced on a suitable and durable material only if it is submitted in hard copy form; and
- (e) amendment to regulation 30 of the B(A)R to cater for the stamping, signing and dating of a plan submitted in the form of an electronic record.

B(MW)(A)(No. 2)R 2021

10. Related amendment is made to section 39 of the B(MW)R (Annex B) so that the requirement of drawing or reproducing a plan of minor works on a suitable and durable material applies only to a plan that is submitted in hard copy form.

B(I&R)(A)R 2021

11. Related amendment is made to section 34 of the B(I&R)R (Annex C) so that the requirement of preparing and presenting a report or proposal on a suitable and durable material applies only to a report or proposal that is submitted in hard copy form.

ETO(A)(No. 2)O 2021

Annex F

12. The ETO(A)(No. 2)O 2021 (Annex D) amends Schedule 3 to the ETO by adding to that Schedule by stages certain provisions of the BO or its subsidiary legislation as set out at Annex F so that section 5A of the ETO will eventually apply to allow all documents prescribed by the BO or its subsidiary legislation to be served electronically to satisfy the requirement on personal service or by post under the BO or its subsidiary legislation upon full implementation of the ESH.

ET(E)(A)(No. 2)O 2021

Annex G

13. The ET(E)(A)(No. 2)O 2021 (Annex E) amends Schedules 1 and 2 to the ET(E)O to remove by stages the currently excluded provisions of the BO or its subsidiary legislation as set out at Annex G in relation to certain documents prescribed by those provisions, so that sections 5 and 6

of the ETO will eventually apply to all documents prescribed by the BO or its subsidiary legislation upon full implementation of the ESH.

STAGED IMPLEMENTATION AND COMMENCEMENT NOTICE

Annex H 14. Electronic submission will be implemented in three stages according to the types of plans or related documents as shown in Annex H. The first stage of the ESH is scheduled for implementation on 31 March 2022, covering electronic submissions requiring only approval from the BA. It is our plan⁶ to extend electronic submissions to those that involve referrals to works departments by Q4 of 2023 and to all types of submissions by Q2 of 2025.

15. The proposal to amend the B(A)R, the B(MW)R, the B(I&R)R, the ETO and the ET(E)O will be tabled in the Legislative Council (*LegCo*) on 15 September 2021 and the amendments applicable to stage 1 will come into operation on 31 March 2022. Commencement notices for stages 2 and 3 will be submitted to the LegCo for negative vetting according to the staged implementation plan.

LEGISLATIVE TIMETABLE

16. The legislative timetable is as follows—

Publication in the Gazette	10 September 2021
Tabling in LegCo	15 September 2021
Commencement	31 March 2022 (Commencement dates of stages 2 and 3 to be appointed by SDEV by

⁶ In view of the benefits of the ESH, BD would strive to advance stage 2 and stage 3 if possible depending on the progress of the system development and the readiness of relevant CPS participants.

separate commencement notices published in the Gazette)

IMPLICATIONS OF THE PROPOSAL

17. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposed amendments in the B(A)(A)R 2021, the B(MW)(A)(No. 2)R 2021 and the B(I&R)(A)R 2021 will not affect the current binding effect of the BO and the subsidiary legislation made under the BO, and the proposed amendments in the ETO(A)(No. 2)O 2021 and the ET(E)(A)(No. 2)O 2021 will not affect the current binding effect of the ETO and the subsidiary legislation made under the ETO.

PUBLIC CONSULTATION

18. We have consulted the Building Sub-Committee of the Land and Development Advisory Committee, and the Authorised Persons, Registered Structural Engineers and Registered Geotechnical Engineers Committee on the proposal. Members of the two committees, comprising different professional bodies, associations of the building and construction industry and trade associations, have generally indicated support for the proposal.

19. We circulated an information paper to the Panel on the legislative proposal [vide LC Paper No. CB(1)1157/20-21(01)] in July 2021.

20. The proposed amendments will provide the public an alternative of submitting plans, documents and applications under the BO or its subsidiary legislation electronically, in addition to the existing option of paper submission. No additional public consultation is considered necessary.

PUBLICITY

21. A press release will be issued to announce the legislative amendments when the amendment regulations and amendment orders are published in the Gazette on 10 September 2021. BD will publicise these amendment regulations and amendment orders via its website and through communication with stakeholders including building professionals and industry practitioners. In addition, practice notes on the requirements and procedures of making electronic submission will be issued to the building professionals and registered contractors for reference in due course.

ENQUIRY

22. Enquiry on this brief can be addressed to Ms Jasmine Choi, Principal Assistant Secretary (Planning & Lands) 3 of the Development Bureau at 3509 8806.

Development Bureau
8 September 2021

**Building (Administration) (Amendment) Regulation
2021**

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Building (Administration) (Amendment) Regulation 2021

(Made by the Secretary for Development under section 38 of the Buildings Ordinance (Cap. 123))

Part 1

Preliminary

1. Commencement

- (1) Subject to subsection (2), this Regulation comes into operation on 31 March 2022.
- (2) Parts 3 and 4 come into operation on a day to be appointed by the Secretary for Development by notice published in the Gazette.

2. Building (Administration) Regulations amended

The Building (Administration) Regulations (Cap. 123 sub. leg. A) are amended as set out in Parts 2, 3 and 4.

Part 2

Stage 1 of Application of Sections 5, 5A and 6 of Electronic Transactions Ordinance to Building (Administration) Regulations

3. Regulation 2 amended (interpretation)

Regulation 2—

Add in alphabetical order

“*hard copy form* (印本形式) means a paper form or similar form capable of being read without the aid of any equipment;”.

4. Regulation 6A added

After regulation 6—

Add

“6A. Documents excluded from application of sections 5, 5A and 6 of Electronic Transactions Ordinance

- (1) A document prescribed in paragraph (2) is specified for the purposes of—
 - (a) item 14 of Schedule 3 to the Electronic Transactions Ordinance (Cap. 553);
 - (b) items 9 and 10 of Schedule 1 to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B); and
 - (c) item 5 of Schedule 2 to that Order.
- (2) The following documents are prescribed for the purposes of paragraph (1)—

- (a) a document prescribed by regulation 8(1)(a), (b), (ba), (bb), (bc), (c), (d), (e), (f), (g), (h), (j), (k), (l) or (m), (3) or (4) or 9;
- (b) a document prescribed by regulation 8(1)(i) (only if the document is related to structural works below ground level, or is submitted to the Building Authority for approval of any building works consisting of repairs, alterations or additions to a building);
- (c) a document by which an application under regulation 33(1) is made (only if the application relates to a document mentioned in subparagraph (a) or (b)).

Notes without legislative effect—

1. This regulation specifies certain documents in relation to which the application of sections 5, 5A and 6 of the Electronic Transactions Ordinance (Cap. 553) (*ETO*) are excluded (*excluded documents*).
2. Section 5 of ETO allows the use of an electronic record to satisfy a rule of law that requires or permits any information to be or given in writing. Because of items 9 and 10 of Schedule 1 to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) (*Exclusion Order*), section 5 of ETO does not apply in relation to regulation 6(1) and Column B in the table to section 17(1) of the Ordinance (*the provisions*) in so far as an excluded document is concerned. Accordingly, an excluded document may not be or given in the form of an electronic record for the purposes of the provisions.
3. Section 5A of ETO allows a rule of law that requires or permits a document to be served by personal service or by post to be satisfied by service of the document in the form of an electronic record. Because of item 14 of Schedule 3 to ETO, section 5A of ETO applies in relation to regulation 6(1) only in so far as a document that is not an excluded document is concerned. Accordingly, an excluded document may not be sent in the form of an electronic record for the purposes of regulation 6(1).

4. Section 6 of ETO allows the use of an electronic signature or digital signature to satisfy a requirement for signature under a rule of law. Because of item 5 of Schedule 2 to the Exclusion Order, section 6 of ETO does not apply in relation to regulation 12(1), (2), (3) and (5) in so far as an excluded document is concerned. Accordingly, an electronic signature or digital signature may not be used in relation to an excluded document for the purposes of regulation 12(1), (2), (3) and (5).”.

5. Regulation 11 substituted

Regulation 11—

Repeal the regulation**Substitute****“11. Submission of plans and related documents**

- (1) A plan or a related document that is submitted in hard copy form to the Building Authority for approval must be submitted in duplicate.
- (2) If a plan or a related document is submitted (whether or not in hard copy form) to the Building Authority for approval, the Building Authority may require the submission of any additional copies of it in hard copy form that the Building Authority considers necessary.
- (3) In this regulation—
related document (相關文件) means—
 - (a) all details of ground treatment work proposed in connection with a plan; or
 - (b) a site investigation report in connection with a plan.”.

6. Regulation 14 amended (plans to be clear and material thereof)

- (1) Regulation 14, heading—

Repeal

“to be clear and material thereof”

Substitute

“must be clear and drawn or reproduced on suitable material”.

(2) Regulation 14—

Repeal paragraph (1)**Substitute**

“(1) A plan submitted to the Building Authority for approval must be drawn or reproduced—

- (a) in a clear and intelligible manner; and
- (b) if submitted in hard copy form—on a suitable and durable material.”.

7. Regulation 30 amended (approval of plans)

Regulation 30—

Repeal paragraph (1)**Substitute**

“(1) The approval by the Building Authority of a plan submitted to the Building Authority is to be signified by—

- (a) a notice in writing served on the person applying for the approval; and
- (b) the stamping, signing and dating of the plan (other than structural calculations or geotechnical calculations).

- (1A) A plan the approval of which is signified in accordance with paragraph (1)(b) must be returned or made available to the authorized person, registered structural engineer or registered geotechnical engineer concerned.”.

Part 3

**Stage 2 of Application of Sections 5, 5A and 6 of
Electronic Transactions Ordinance to Building
(Administration) Regulations**

8. **Regulation 6A amended (documents excluded from application of sections 5, 5A and 6 of Electronic Transactions Ordinance)**
- (1) Regulation 6A(2)(a)—
Repeal
everything after “(ba),”
Substitute
“(c), (f), (g), (h), (j), (k) or (m) or 9;”.
- (2) Regulation 6A(2)(b)—
Repeal
“8(1)(i) (only if the document is related to structural works below ground level, or”
Substitute
“8(1)(bb), (bc), (d), (e), (i) or (l), (3) or (4) (only if the document”.
-

Part 4

**Stage 3 of Application of Sections 5, 5A and 6 of
Electronic Transactions Ordinance to Building
(Administration) Regulations**

9. **Regulation 6A repealed (documents excluded from application of sections 5, 5A and 6 of Electronic Transactions Ordinance)**
Regulation 6A—
Repeal the regulation.



Secretary for Development

7 September 2021

Explanatory Note

The main purpose of this Regulation is to amend the Building (Administration) Regulations (Cap. 123 sub. leg. A) (*principal Regulations*) so that sections 5, 5A and 6 of the Electronic Transactions Ordinance (Cap. 553) (*ETO*) are to apply, in 3 stages, in relation to the documents prescribed by regulation 8, 9 or 33(1) of the principal Regulations (*building documents*).

2. The Regulation is divided into 4 Parts. Part 1 provides for the preliminary matters, including commencement. Parts 2, 3 and 4 provide respectively for the implementation of stages 1, 2 and 3 of the application of sections 5, 5A and 6 of ETO in relation to the building documents. Parts 2, 3 and 4 will come into operation on different dates.
3. Part 2 will come into operation at the beginning of stage 1 and contains the following provisions—
 - (a) section 4 adds a new regulation 6A to the principal Regulations to specify the building documents that are excluded from the application of sections 5, 5A and 6 of ETO during stage 1;
 - (b) section 5 substitutes a new provision for regulation 11 of the principal Regulations so that a plan or a related document needs to be submitted in duplicate only if it is submitted in hard copy form;
 - (c) section 6 amends regulation 14 of the principal Regulations so that a plan needs to be drawn or reproduced on a suitable and durable material only if it is submitted in hard copy form; and
 - (d) section 7 amends regulation 30 of the principal Regulations to cater for the stamping, signing and dating of a plan submitted in the form of an electronic record.

4. Part 3 will come into operation at the beginning of stage 2 and the new regulation 6A that comes into operation in stage 1 will be amended so that some building documents will no longer be excluded from the application of sections 5, 5A and 6 of ETO.
5. Part 4 will come into operation at the beginning of stage 3 and the new regulation 6A will be repealed so that sections 5, 5A and 6 of ETO will apply in relation to all building documents.

Building (Minor Works) (Amendment) (No. 2) Regulation 2021

(Made by the Secretary for Development under section 38 of the Buildings Ordinance (Cap. 123))

1. Commencement

This Regulation comes into operation on 31 March 2022.

2. Building (Minor Works) Regulation amended

The Building (Minor Works) Regulation (Cap. 123 sub. leg. N) is amended as set out in section 3.

3. Section 39 amended (plans to be clear and material of plan)

(1) Section 39, Chinese text, heading—

Repeal

“必”.

(2) Section 39(1)—

Repeal

everything after “reproduced”

Substitute

“—

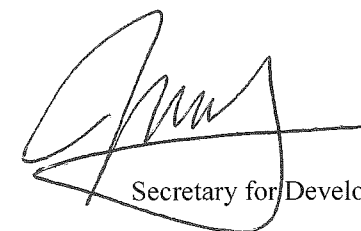
- (a) in a clear and intelligible manner; and
- (b) if submitted in hard copy form—on a suitable and durable material.”.

(3) After section 39(2)—

Add

“(3) In this section—

hard copy form (印本形式) means a paper form or similar form capable of being read without the aid of any equipment.”.



Secretary for Development

7 September 2021

Explanatory Note

This Regulation amends section 39 of the Building (Minor Works) Regulation (Cap. 123 sub. leg. N) so that the requirement of drawing or reproducing a plan of minor works on a suitable and durable material applies only to a plan that is submitted in hard copy form.

Building (Inspection and Repair) (Amendment) Regulation 2021

(Made by the Secretary for Development under section 38 of the Buildings Ordinance (Cap. 123))

1. Commencement

This Regulation comes into operation on 31 March 2022.

2. Building (Inspection and Repair) Regulation amended

The Building (Inspection and Repair) Regulation (Cap. 123 sub. leg. P) is amended as set out in section 3.

3. Section 34 amended (material and form of report and proposal)

(1) Section 34—

Renumber the section as section 34(1).

(2) Section 34(1)—

Repeal

everything after “presented”

Substitute

“—

(a) in a clear and intelligible manner; and

(b) if submitted in hard copy form—on a suitable and durable material.”.

(3) After Section 34(1)—

Add

“(2) In this section—

hard copy form (印本形式) means a paper form or similar form capable of being read without the aid of any equipment.”.



Secretary for Development

7 September 2021

Explanatory Note

This Regulation amends section 34 of the Building (Inspection and Repair) Regulation (Cap. 123 sub. leg. P) so that the requirement of preparing and presenting report or proposal on a suitable and durable material applies only to a report or proposal that is submitted in hard copy form.

Explanatory Note

Section 5A of the Electronic Transactions Ordinance (Cap. 553) (*Ordinance*) allows a rule of law that requires or permits a document to be served by personal service or by post to be satisfied by service of the document in the form of an electronic record. Schedule 3 to the Ordinance sets out the provisions to which that section applies.

2. Section 3(1) of this Order amends Schedule 3 to the Ordinance by adding the following provisions to that Schedule so that certain documents are allowed to be served in the form of an electronic record—
 - (a) sections 3(11), (11A)(b) and (11C), 8C(6)(b) and 35(1)(a) and (b) of the Buildings Ordinance (Cap. 123);
 - (b) regulation 6(1) of the Building (Administration) Regulations (Cap. 123 sub. leg. A) (*Administration Regulations*) (to the extent to which it relates to a document that is not one specified under regulation 6A(1)(a) of the Administration Regulations);
 - (c) section 46(2)(a) of the Building (Minor Works) Regulation (Cap. 123 sub. leg. N).
3. The new item relating to regulation 6(1) of the Administration Regulations will later be amended so that it will eventually cover any document prescribed by regulation 8, 9 or 33(1) of the Administration Regulations (section 3(2) of this Order).

**Electronic Transactions (Exclusion) (Amendment)
(No. 2) Order 2021**

(Made by the Permanent Secretary for Innovation and Technology under section 11(1) of the Electronic Transactions Ordinance (Cap. 553))

1. Commencement

- (1) Subject to subsections (2) and (3), this Order comes into operation on 31 March 2022.
- (2) Section 3(2) comes into operation on the day on which Part 3 of the Building (Administration) (Amendment) Regulation 2021 (*Regulation*) comes into operation.
- (3) Sections 3(3) and 4(2) come into operation on the day on which Part 4 of the Regulation comes into operation.

2. Electronic Transactions (Exclusion) Order amended

The Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) is amended as set out in sections 3 and 4.

3. Schedule 1 amended (provisions excluded from application of section 5 of Ordinance)

- (1) Schedule 1—
Repeal items 9 and 10
Substitute

“9. Buildings Ordinance (Cap. 123)

Column B in the table to section 17(1) (to the extent to which the conditions and requirements set out in that Column relate to a document specified under regulation 6A(1)(b) of the Building (Administration) Regulations (Cap. 123 sub. leg. A)), sections 20(2) and 21(2)

10. Building (Administration) Regulations (Cap. 123 sub. leg. A)

Regulation 6(1) (to the extent to which it relates to a document specified under regulation 6A(1)(b))”.

- (2) Schedule 1—
Repeal item 11
Substitute

“11. Building (Planning) Regulations (Cap. 123 sub. leg. F)

Regulation 51(1)”.

- (3) Schedule 1—
Repeal items 9, 10 and 11.

4. **Schedule 2 amended (provisions excluded from application of section 6 of Ordinance)**

(1) Schedule 2—

Repeal item 5

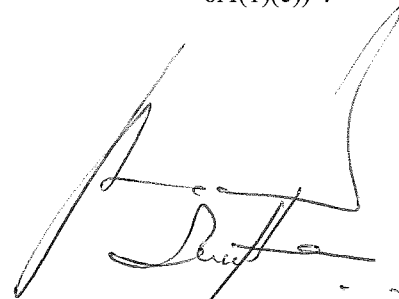
Substitute

“5. Building (Administration) Regulations (Cap. 123 sub. leg. A)

Regulation 12(1), (2), (3) and (5) (to the extent to which it relates to a document specified under regulation 6A(1)(c))”.

(2) Schedule 2—

Repeal item 5.



Permanent Secretary for Innovation and Technology

2 September 2021

Explanatory Note

Section 5 of the Electronic Transactions Ordinance (Cap. 553) (*Ordinance*) allows the use of an electronic record to satisfy a rule of law that requires or permits information to be or given in writing. Schedule 1 to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) (*principal Order*) specifies the provisions that are excluded from the application of that section.

2. Section 6 of the Ordinance allows the use of an electronic signature or digital signature to satisfy a rule of law that requires a signature. Schedule 2 to the principal Order specifies the provisions that are excluded from the application of that section.
3. This Order amends Schedules 1 and 2 to the principal Order to remove by stages the exclusion of the relevant provisions of the following enactments—
 - (a) the Buildings Ordinance (Cap. 123);
 - (b) the Building (Administration) Regulations (Cap. 123 sub. leg. A);
 - (c) the Building (Planning) Regulations (Cap. 123 sub. leg. F).
4. Eventually, no provision of the enactments mentioned in paragraph 3 will be specified in Schedule 1 or 2 to the principal Order.

**Provisions Proposed to be Included by Stages in Schedule 3
to the Electronic Transactions Ordinance**

Details of the provisions containing the requirement of serving documents which are proposed to be included in Schedule 3 to the Electronic Transactions Ordinance (Cap. 553) are set out below¹ -

- (a) Under section 3(11) of the Buildings Ordinance (Cap. 123) (**BO**), the Building Authority (**BA**) may remove the name of a person from the authorised persons' register, the structural engineers' register, the geotechnical engineers' register, or the inspectors' register, who is deceased or is not practising the profession in respect of which the name of that person was included in the register, after sending by post notice of BA's intention to the last known address of the person (*Stage 1*);
- (b) Under section 3(11A)(b) of the BO, subject to section 3(11AA), the BA must remove the name of a person from the authorised persons' register, the structural engineers' register, the geotechnical engineers' register or the inspectors' register if the BA has refused an application made by the person under section 3(9D) and sent a notice by registered post to the person's last known address notifying the person of the refusal (*Stage 1*);
- (c) Under section 3(11C) of the BO, the BA must give notice of the removal of a name from a register under section 3(11B), by

¹ The main purpose of the proposed inclusion is to add regulation 6(1) of the Building (Administration) Regulations in paragraph (f) to Schedule 3, so that documents submitted to the BA can be served in the form of electronic record by stages to satisfy the requirements of serving documents by post or in person. To pave way for a wider and fuller adoption of electronic means in serving documents by the BA in future, other provisions under the BO and the Building (Minor Works) Regulation are added at the same time, which provides an alternative means for BA to serve documents to the addressee by electronic means when it becomes favourable in the future.

prepaid registered post to the person's last known address (*Stage 1*);

- (d) Under section 8C(6)(b) of the BO, subject to section 8C(6A), the BA must remove the name of a person from a contractors' register if the BA has refused an application made by the person under section 8C(5) and sent a notice by registered post to the person's last known address notifying the person of the refusal (*Stage 1*);
- (e) Under section 35(1)(a) and (b) of the BO, any notice, order or certificate required to be served under the BO may be served by serving a copy personally or by registered post addressed to the last known place of business or residence of the person to be served (*Stage 1*);
- (f) Under regulation 6(1) of the Building (Administration) Regulations (Cap. 123 sub. leg. A), every notice, form, certificate, plan or other document required by the BO or regulations made under the BO to be sent to the BA must be sent to the BA by post or by delivering the same to the BA's office during office hours (*progressively from Stage 1 to Stage 3 according to Annex H*); and
- (g) Under section 46(2)(a) of Building (Minor Works) Regulation (Cap. 123 sub. leg. N), if an appointment of a technically competent person under section 45(1)(a) is rejected by the BA, the BA must notify the person who made the appointment of the rejection by sending a notice by registered post to the last known address of the person (*Stage 1*).

**Exclusions Proposed to be Removed by Stages from
the Electronic Transactions (Exclusion) Order**

Details of the provisions to be removed from the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) (**ET(E)O**) are set out below –

Schedule 1 to the ET(E)O (provisions excluded from the application of section 5 of the Electronic Transactions Ordinance (ETO))

- (a) Under column B in the table to section 17(1) of the Buildings Ordinance (Cap. 123) (**BO**), the Building Authority (**BA**) may impose conditions requiring the submission of plans and further particulars, etc. as the BA may consider necessary for the approval of plan and consent to commence building works or street works (*progressively from Stage 1 to Stage 3 according to Annex H*);
- (b) Under section 20(2) of the BO, application for renewal of consent for any building works or street works must be made in the specified form and the BA may renew the consent and by order in writing impose conditions as in the BA's opinion are made necessary by the delay in commencement or suspension of works (*Stage 3*);
- (c) Under section 21(2) of the BO, an application must be made in the specified form to the BA for an occupation permit in respect of the new building or a temporary occupation permit in respect of the whole or any part of a new building that is completed (*Stage 3*);
- (d) Under regulation 6(1)¹ of the Building (Administration)

¹ Regulation 6(1) of the B(A)R is also proposed to be added to Schedule 3 to the ETO to allow notice, form, certificate, plan or other document required by the BO or its subsidiary legislation to be sent in the form of electronic record.

Regulations (Cap. 123 sub. leg. A) (**B(A)R**), every notice, form, certificate, plan or other document required by the BO or regulations made under the BO to be sent to the BA must be sent to the BA by post or by delivering the same to the BA's office during office hours (*progressively from Stage 1 to Stage 3 according to Annex H*);

- (e) Under regulation 11 of the B(A)R, a plan submitted to the BA for the BA's approval, and a report of site investigation and all details of ground treatment works proposed in connection with a plan submitted to the BA must be submitted in duplicate (*Stage 1*);
- (f) Under regulation 51(1) of the Building (Planning) Regulations (Cap. 123 sub. leg. F) (**B(P)R**), a building owner must submit an application in the specified form together with plans to the BA for a permit to erect a temporary building (*Stage 3*);
- (g) Under regulation 64(1) and (2) of the B(P)R, a building owner who intends to erect, alter, or demolish any building, or carry out any excavations must submit an application in the specified form to the BA with plans of hoardings, covered walkways and gantries as the case may require, for a permit to erect the hoardings, covered walkway and gantries (*Stage 2*); and

Schedule 2 to the ET(E)O (provisions excluded from the application of section 6 of the ETO)

- (h) Under regulation 12(1), (2), (3) and (5) of the B(A)R, certain documents must be prepared and signed by an authorised person, a registered structural engineer or a registered geotechnical engineer as the case may be, and the above person's signature is to be deemed to be the person's assumption of all responsibility for the documents (*progressively from Stage 1 to Stage 3 according to Annex H*).

Implementation Plan and Types of Plans to be Accepted by the Electronic Submission Hub (ESH) in Each Stage

Stage	Type of Plans
Stage 1 31 March 2022	Plans ^{Note 1} not requiring cross-department referral, concerning - <ul style="list-style-type: none">• Structural works above ground
Stage 2 Q4 2023	Plans ^{Note 1} requiring referral to Works Departments ^{Note 2} only, concerning - <ul style="list-style-type: none">• Demolition• Drainage• Excavation and lateral support• Ground investigation• Foundation• Hoarding• Site formation• All structural works
Stage 3 Q2 2025	All types of plans and other relevant applications under the Buildings Ordinance

Note 1: For the avoidance of doubt, plans for alteration and addition works may involve horizontal and/ or vertical extension of buildings and building works resulting in new buildings entailing the issuance of occupation permit, hence they would only be accepted by ESH in stage 3.

Note 2: These include the Architectural Services Department, the Civil Engineering and Development Department, the Drainage Services Department, the Highways Department, the Transport Department and the Water Supplies Department.