

**Information Paper for
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**LEGISLATIVE COUNCIL
PANEL ON DEVELOPMENT**

**Legislative Amendment Proposal for
the Implementation of the Electronic Submission Hub**

PURPOSE

This paper reports for Members' information the legislative amendment proposal to allow submission and processing of plans, documents and applications by electronic means using the Electronic Submission Hub ("ESH") as an alternative to the present paper-based system under the Buildings Ordinance (Cap. 123) ("BO").

BACKGROUND

2. With the support from the Legislative Council ("LegCo") Panel on Development on 19 December 2018 [vide LC Paper No. CB(1)323/18-19(07)], we obtained funding of \$214.39 million from the Finance Committee ("FC") on 1 February 2019 for the development of the ESH [vide FC Paper No. FCR(2018-19)78]. The development of the ESH is underway; we plan to launch its first phase in Q1 2022 as scheduled, with full implementation¹ by Q2 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. To enable the utilisation of this ESH, there is a need to introduce consequential and technical amendments to the various subsidiary legislation under the BO, as well as the Electronic Transactions Ordinance (Cap. 553) ("ETO") and the Electronic Transactions (Exclusion) Order (Cap. 553B) ("ET(E)O"), the relevant provisions

¹ Involving over 30 government departments/ organisations which may involve in processing building plans.

of which currently focus on paper-based submissions.

CURRENT STATUTORY PROVISIONS AND REQUIREMENTS FOR PAPER AND ELECTRONIC TRANSACTIONS

BO and its Subsidiary Legislation

3. The BO and its subsidiary legislation contain provisions which generally govern the manner and format in which submissions may be made to or approved by the Building Authority (“BA”) on a paper-based system. These mainly include:

- (a) submissions to be made in writing – notices, forms, certificates, plans, reports or other documents in hard copy with plans and specific reports in duplicate;
- (b) applications to be submitted by post or delivering to the BA’s office during office hours;
- (c) plans, notices, forms, certificates etc. to be signed by the person who prepares them and the signature be deemed to be assumption of all responsibilities for the such plans and documents;
- (d) stamping, signing and dating on approved plans by the BA to signify the BA’s approval; and
- (e) certain documents to be served by the BA by personal service and registered post etc.

ETO and ET(E)O

4. The ETO provides 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. In particular, section 5 and section 6 of the ETO respectively permit information contained in an electronic record and an electronic signature on an electronic document to have the same legal status as those of a paper document. Certain provisions of the BO and its subsidiary legislation are now excluded from application of sections 5 and 6 of the ETO by virtue of

Schedules 1 and 2 to the ET(E)O respectively. Further, section 5A(1) of the ETO provides that the 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, Schedule 3 to the ETO does not have any provision to cover the BO and its subsidiary legislation.

PROPOSED AMENDMENTS

5. Amendments to the Building (Administration) Regulations (Cap. 123A) (“B(A)R”), Building (Minor Works) Regulation (Cap. 123N) (“B(MW)R”) and Building (Inspection and Repair) Regulation (Cap. 123P) (“B(I&R)R”), and corresponding amendments to the ETO and ET(E)O are required to allow the submission of plans, documents and applications to the BA and approval of submissions by the BA by electronic means.

6. A brief account of the major proposed amendments is set out below:

Amendments to the B(A)R

- (a) to allow submission of plans and documents to the BA to be made by electronic means as an alternative means to the present paper-based system;
- (b) to enable that electronic submissions are not bounded by BA’s office hours as the ESH is proposed to be operated round-the-clock except during service outage;
- (c) to allow the BA to process the submissions electronically after the implementation of the ESH;
- (d) to give effect to an electronic signature which shall be deemed to be assumption of responsibility for the plans, details, calculations, reports, proposals, etc. submitted to the BA;
- (e) to allow the BA to signify his approval of plans by electronic means;
- (f) to introduce the staged implementation of the ESH and the types of plans to be accepted in each stage before full implementation²;

² Please refer to **Appendix** on the stages of ESH implementation.

Corresponding Amendments to B(MW)R and B(I&R)R

- (g) to make corresponding amendments to the provisions in B(MW)R and B(I&R)R in parallel with the proposed amendments to B(A)R on the requirements of electronic submission and electronic signature in relation to minor works and prescribed inspection and repair works;

Corresponding Amendments to the ETO and ET(E)O

- (h) to make corresponding amendments to the ET(E)O by withdrawing the exclusions under Schedules 1 and 2 to ET(E)O to give electronic records and digital signatures used in electronic transactions under the BO and its subsidiary legislation the same legal status as that of their paper-based counterparts; and
- (i) to make corresponding amendments to the ETO by inclusion of certain provisions of the BO and its subsidiary legislation under Schedule 3 to the ETO to the effect that the service of documents under the BO and its subsidiary legislation by electronic means has the same legal status as service by post and personal service, etc.

STAGED IMPLEMENTATION OF ESH

7. The ESH will be implemented in stages according to the table set out in **Appendix**, which is consistent with the timetable as set out in the FC Paper mentioned in paragraph 2 above. The staged implementation of ESH is necessary as the development of the entire ESH involves complex coordination between BD and over 30 government departments and organisations under the centralised processing system (“CPS”) for building plans. In view of the benefits of ESH, BD would at the same time strive to advance Stage 2 and Stage 3 depending on the system development progress and the readiness of relevant CPS participants.

8. Certain new provisions will be added to the B(A)R and Schedule 3 to the ETO, and exclusions from the ETO will be withdrawn by stages to provide for the types of prescribed plans and applications that may be accepted by electronic means to tie in with the ESH implementation plan. While the current legislative amendments to the B(A)R, the ETO and the ET(E)O will be gazetted and tabled in LegCo in one package, provisions applicable to different stages will be

commenced with respect to the stages of the implementation plan. Commencement notices will be submitted to the LegCo for negative vetting by stages.

PUBLIC CONSULTATION

9. We have consulted the Building Sub-Committee of Land and Development Advisory Committee, and the Authorized 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.

LEGISLATIVE TIMETABLE

10. The proposed amendments to the B(A)R and corresponding amendments to B(MW)R, B(I&R)R, ETO and ET(E)O, require negative vetting by the LegCo. The proposed legislative timetable is as follows –

Publication of the legislative amendments in the Gazette	Q3 2021
Tabling of the legislative amendments to the LegCo for negative vetting	Q3 2021
Commencement dates	To be specified by Secretary for Development by separate commencement notices according to the dates of the staged implementation of the ESH

WAY FORWARD

11. The legislative amendment proposal as detailed above is an essential

and relatively straightforward follow up action consequential to the development of ESH which is underway with funding approved by the FC of the LegCo. As such, Members are invited to note the proposal. The Government will finalise the proposed legislative amendments according to the timetable as set out in paragraph 10 above.

Development Bureau
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**Implementation Plan and
Type of Plans to be Accepted by the ESH in Each Stage**

Stage	Type of Plans
Stage 1 Q1 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 BO

Note 1: For 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