

Electronic Health Record Sharing System (Amendment) Bill 2025

Committee Stage

Amendments to be moved by the Secretary for Health

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By deleting “a day to be appointed by the Secretary for Health by notice published in the Gazette” and substituting “1 December 2025”.
10(2)	In the proposed section 5(1), by deleting “after the commencement date” and substituting “after 1 December 2025”.
10(2)	In the proposed section 5(1), by deleting “before the commencement date” and substituting “before that date”.
10(4)	By deleting the proposed section 5(3) and substituting— “(3) In subsection (1)— <i>former section 5(1)</i> (原有第 5(1)條) means section 5(1) as in force immediately before 1 December 2025.”.
14	By adding— “(3A) Section 10(4)— Repeal “ <i>When</i> ” Substitute “ <i>If</i> ”. ”.
14(4)	By adding “during the period of suspension” after “eHealth System”.
14	By deleting subclause (5) and substituting— “(5) Section 10(4)— Repeal paragraph (b) Substitute

“(b) the Commissioner is to take appropriate measures to restrict access to the eHealth System so that, during the period of suspension, the electronic health record of the recipient—

- (i) is not to be made available to a relevant healthcare provider through the eHealth System; and
- (ii) is not to be provided to a recognized non-Hong Kong public health record system through the eHealth System.”.”.

15

By adding—

“(4) After section 11(4)—

Add

“(4A) The Commissioner is to take appropriate measures to restrict access to the eHealth System so that, during the period after the notice under subsection (2) is given and before the date on which the cancellation takes effect—

- (a) no new data or information of the healthcare recipient may be provided by a relevant healthcare provider or a specified healthcare provider, or be provided from a recognized non-Hong Kong public health record system, to the eHealth System; and
- (b) the electronic health record of the healthcare recipient—
 - (i) is not to be made available to a relevant healthcare provider through the eHealth System; and
 - (ii) is not to be provided to a recognized non-Hong Kong public health record system through the eHealth System.”.”.

26

By adding—

“(1A) Section 24(4)—

Repeal

“When”

Substitute

“If”.”.

- 26 By deleting subclause (2) and substituting—
- “(2) Section 24(4)—
- Repeal paragraphs (a) and (b)**
- Substitute**
- “(a) subject to subsection (4A), new data or information of a registered healthcare recipient may still be provided by the healthcare provider to the eHealth System during the period of suspension; but
- (b) the Commissioner is to take appropriate measures to restrict access to the eHealth System so that the electronic health record of a registered healthcare recipient is not to be made available to the healthcare provider through the eHealth System during the period of suspension.”.
- 26 By deleting subclauses (3) and (4).
- 26 By adding—
- “(5) After section 24(4)—
- Add**
- “(4A) If the registration of a healthcare provider (including a Government department) is suspended under subsection (1)(e), the Commissioner is to take appropriate measures to restrict access to the eHealth System so that no new data or information of a registered healthcare recipient may be provided by the healthcare provider to the eHealth System during the period of suspension.”.
- 27 By renumbering the clause as clause 27(1).
- 27 By adding—
- “(2) After section 25(4)—
- Add**
- “(4A) The Commissioner is to take appropriate measures to restrict access to the eHealth System so that, during the period after the notice under subsection (2) is given and before the date on which the cancellation takes effect—

- (a) no new data or information of a registered healthcare recipient may be provided by the healthcare provider to the eHealth System; and
- (b) the electronic health record of a registered healthcare recipient is not to be made available to the healthcare provider through the eHealth System.”.”.

28

By deleting the proposed section 26C(4) and substituting—

- “(4) If the recognition of a non-Hong Kong healthcare provider is suspended—
 - (a) subject to subsection (4A), new data or information of a registered healthcare recipient may still be provided by the healthcare provider to the eHealth System during the period of suspension; but
 - (b) the Commissioner is to take appropriate measures to restrict access to the eHealth System so that the electronic health record of a registered healthcare recipient is not to be made available to the healthcare provider through the eHealth System during the period of suspension.
- (4A) If the recognition of a non-Hong Kong healthcare provider is suspended under subsection (1)(d), the Commissioner is to take appropriate measures to restrict access to the eHealth System so that no new data or information of a registered healthcare recipient may be provided by the healthcare provider to the eHealth System during the period of suspension.”.

28

In the proposed section 26D(2)(a), by deleting “takes” and substituting “is to take”.

28

In the proposed section 26D, by adding—

- “(4A) The Commissioner is to take appropriate measures to restrict access to the eHealth System so that, during the period after the notice under subsection (2) is given and before the date on which the revocation takes effect—
 - (a) no new data or information of a registered healthcare recipient may be provided by the healthcare provider to the eHealth System; and

- (b) the electronic health record of a registered healthcare recipient is not to be made available to the healthcare provider through the eHealth System.”.

28

By deleting the proposed section 26G(4) and substituting—

“(4) If the recognition of a non-Hong Kong information infrastructure is suspended—

- (a) subject to subsection (4A), new data or information of a registered healthcare recipient may still be provided from the information infrastructure to the eHealth System during the period of suspension; but
- (b) the Commissioner is to take appropriate measures to restrict access to the eHealth System so that the electronic health record of a registered healthcare recipient is not to be provided to the information infrastructure through the eHealth System during the period of suspension.

(4A) If the recognition of a non-Hong Kong information infrastructure is suspended under subsection (1)(d), the Commissioner is to take appropriate measures to restrict access to the eHealth System so that no new data or information of a registered healthcare recipient may be provided from the information infrastructure to the eHealth System during the period of suspension.”.

28

In the proposed section 26H(2)(a), by deleting “takes” and substituting “is to take”.

28

In the proposed section 26H, by adding—

“(4A) The Commissioner is to take appropriate measures to restrict access to the eHealth System so that, during the period after the notice under subsection (2) is given and before the date on which the revocation takes effect—

- (a) no new data or information of a registered healthcare recipient may be provided from the information infrastructure to the eHealth System; and
- (b) the electronic health record of a registered healthcare recipient is not to be provided to the information infrastructure through the eHealth System.”.

- 29 In the proposed section 26P, by deleting the definition of ***commencement date***.
- 29 In the proposed section 26P, in the definition of ***former section 12***, by deleting “the commencement date” and substituting “1 December 2025”.
- 29 In the proposed section 26P, in the definition of ***relevant joining consent***, by deleting “the commencement date” and substituting “1 December 2025”.
- 29 In the proposed section 26P, in the definition of ***relevant sharing consent***, by deleting “the commencement date” and substituting “1 December 2025”.
- 29 In the proposed section 26Q(1)(b), in the English text, by deleting “of a registered healthcare recipient (specified in subsection (3))” and substituting “specified in subsection (3) of a registered healthcare recipient”.
- 29 In the proposed section 26Q(2), by deleting “of the healthcare recipient referred to in subsection (1)(b)” and substituting “referred to in subsection (1)(b), unless the healthcare recipient has given the healthcare provider a notice, in the form and manner specified by the Commissioner, stating that the healthcare recipient does not consent to the provision of the health data to the eHealth System”.
- 29 In the proposed section 26Q(3), by deleting “of the healthcare recipient are those” and substituting “is the data”.
- 29 In the proposed section 26R(1), by deleting “is of the opinion” and substituting “, after making such enquiry as the Commissioner considers necessary, is satisfied”.
- 29 In the proposed section 26R(2)(a), by deleting “of the opinion referred to in subsection (1) and the reason for that opinion” and substituting “satisfied that the specified healthcare provider has contravened section 26Q(2) and the reason for being so satisfied”.
- 29 In the proposed section 26R(2)(b)(ii), by deleting “such” and substituting “the”.

- 29 In the proposed section 26R(2)(c), by deleting “specified”.
- 29 In the proposed section 26R(4), by deleting “or amend”.
- 29 In the proposed section 26S(1), in the Chinese text, in the definition of 關連人士, by deleting paragraph (b) and substituting—
“(b) 由該接受者根據第 26W(1)條授權的人。”.
- 29 In the proposed section 26W(3), by adding “and the person authorized” before “in writing”.
- 29 In the proposed section 26X(3), by adding “and the person whose authorization is revoked” before “in writing”.
- 33 In the proposed section 30B, by deleting “37A(a)” and substituting “37A(a)(i)”.
- 33 In the proposed section 30C, by deleting “37A(b)” and substituting “37A(a)(ii)”.
- 37 In the proposed section 37A, by deleting everything after “The Commissioner” and substituting—
“may—
(a) authorize a person for the purposes of—
(i) section 30B; or
(ii) section 30C; and
(b) impose conditions that the Commissioner considers appropriate.”.
- 40 In the proposed section 41A, in the heading, by deleting “**to be or holding out as eHealth System**” and substituting “**or holding out to be eHealth System to mislead others**”.
- 40 In the proposed section 41A(1), by deleting everything after “the person” and substituting—
“—

- (a) without the written consent of the Commissioner, establishes or maintains an information infrastructure that purports or holds itself out—
 - (i) to be the eHealth System or any part of it; or
 - (ii) to be in any way associated with the eHealth System; and
- (b) does so with intent to mislead any person into believing, or being reckless as to whether any person would be misled into believing, that the information infrastructure is—
 - (i) the eHealth System or any part of it; or
 - (ii) in any way associated with the eHealth System.”.

40 In the proposed section 41A(2), by deleting “level 3” and substituting “level 6”.

40 In the proposed section 41B(3), by deleting “level 3” and substituting “level 6”.

43 By deleting the proposed section 47A(3) and substituting—
 “(3) It is a defence for a person charged with an offence under subsection (1) to establish that the person had exercised all due diligence to prevent the commission of the offence.”.

43 In the proposed section 47B(1), in the English text, by deleting “the liability” and substituting “liability”.

43 By deleting the proposed section 47B(2)(b) and substituting—
 “(b) has provided to the eHealth System, in the form and manner stated in the enforcement notice to which the offence relates, the specified health data stated in the notice within 21 days after the date of the penalty notice,”.

43 In the proposed section 47B(4), in the English text, by deleting “the liability” and substituting “liability”.

43 In the proposed section 47C, in the heading, by deleting “**comply with enforcement notice continues**” and substituting “**provide specified health data after giving penalty notice**”.

- 43 In the proposed section 47C(1)(a), by deleting “penalty;” and substituting “penalty; and”.
- 43 By deleting the proposed section 47C(1)(b) and substituting—
- “(b) within 21 days after the date of the penalty notice, the person—
- (i) has not given the Commissioner a notification mentioned in section 47B(4) to indicate the wish to dispute liability for the offence to which the penalty notice relates; and
- (ii) has not provided to the eHealth System, in the form and manner stated in the enforcement notice to which the penalty notice relates, the specified health data stated in the enforcement notice, regardless of whether the person has paid the fixed penalty (or any part of it) under the penalty notice.”.
- 43 By deleting the proposed section 47C(1)(c).
- 47 In the proposed section 53A, in the Chinese text, by deleting “在”.
- 49(4) In the English text, by deleting “that are”.
- 55(6) In the proposed Part 3, in item 10, by deleting “employed by the Government or the Hospital Authority”.
- 56 In the proposed Schedule 4, by deleting section 2(c) and substituting—
- “(c) that the person is required to provide to the eHealth System, in the form and manner stated in the enforcement notice given to the person, the specified health data stated in the enforcement notice;
- (ca) that if, within 21 days after the date of the penalty notice, the person—
- (i) has not given the Commissioner a notification mentioned in paragraph (b) to indicate the wish to dispute liability for the offence to which the penalty notice relates; and
- (ii) has not provided to the eHealth System, in the form and manner stated in the enforcement notice to which the penalty notice relates, the specified health data stated in the enforcement notice, regardless of whether the person

has paid the fixed penalty (or any part of it) under the penalty notice,

proceedings may be taken against the person for the offence under section 47A(1), and the person may be liable to the fines mentioned in section 47A(2); and”.

56 In the proposed Schedule 4, in section 4(3), by adding “last known” after “the person’s”.

56 In the proposed Schedule 4, in section 6(2), by deleting “the enforcement notice concerned” and substituting “has provided to the eHealth System, in the form and manner stated in the enforcement notice concerned, the specified health data stated in the notice”.

56 In the proposed Schedule 4, in section 9(1)(a), by adding “to indicate the wish to dispute liability for an offence under section 47A(1)” after “this Schedule”.

56 In the proposed Schedule 4, in section 9(1)(b), by deleting “the liability for an offence under section 47A(1)” and substituting “liability for such an offence”.

56 In the proposed Schedule 4, by deleting section 9(4)(b) and substituting—
“(b) provides to the eHealth System, in the form and manner stated in the enforcement notice to which the offence relates, the specified health data stated in the notice before the day specified in the summons for the person’s appearance.”.

56 In the proposed Schedule 6, in section 1(1), by deleting “If a joining consent is given before the commencement date, the former section 7(3) continues to apply to the consent on or after the commencement date” and substituting “Subject to subsection (1A), if a joining consent is given before 1 December 2025, the former section 7(3) continues to apply to the consent on or after that date”.

56 In the proposed Schedule 6, in section 1, by adding—
“(1A) If a registered healthcare recipient has given a joining consent before 1 December 2025 and also gives a sharing consent on or after that date, the joining consent is to be treated as a consent

specified in section 7(3) from the date on which the sharing consent is given.”.

56 In the proposed Schedule 6, by deleting section 1(2) and substituting—

“(2) In subsection (1)—

former section 7(3) (原有第 7(3)條) means section 7(3) as in force immediately before 1 December 2025.”.

56 In the proposed Schedule 6, in section 2(1), by deleting “the commencement date, the former relevant provisions continue to apply in relation to the consent on or after the commencement date” and substituting “1 December 2025, the former relevant provisions continue to apply in relation to the consent on or after that date”.

56 In the proposed Schedule 6, by deleting section 2(2) and substituting—

“(2) In subsection (1)—

former relevant provisions (原有相關條文) means section 3 and Division 3 of Part 2 as in force immediately before 1 December 2025.”.

New In Part 3, by adding—

“Division 2A—Court Proceedings (Electronic Technology) (Magistrates’ Court) Rules (Cap. 638 sub. leg. B)

58A. Schedule 1 amended (Ordinances under which penalty notices are issued)

Schedule 1, after item 9—

Add

“10. Electronic Health System Ordinance (Cap. 625)”.

58B. Schedule 2 amended (documents that may be sent to Court by means of e-system instead of producing them as paper documents)

Schedule 2, after item 9—

Add

“10. A certificate under section 5 of Schedule 4 to the Electronic Health System Ordinance (Cap. 625)

that is produced for an application under section 4(2) of that Schedule”.”.