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# Electronic Transactions (Amendment) Bill 2023

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**Part 3**

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# A BILL

## To

Amend the Electronic Transactions Ordinance and its subsidiary legislation to facilitate various government bureaux and departments in implementing e-services; and to make related and technical amendments.

Enacted by the Legislative Council.

### **Part 1**

#### **Preliminary**

**1. Short title**

This Ordinance may be cited as the Electronic Transactions (Amendment) Ordinance 2023.

**2. Enactments amended**

The enactments specified in Parts 2, 3 and 4 are amended as set out in those Parts.

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## Part 2

### Amendments to Electronic Transactions Ordinance (Cap. 553)

**3. Section 3 amended (matters to which sections 5, 5A, 6, 7, 8 and 17 are not applicable)**

(1) Section 3(a), English text—

**Repeal**

“or given”

**Substitute**

“, or to be given,”.

(2) Section 3(aa)—

**Repeal**

“by personal service or by post”

**Substitute**

“on a person”.

**4. Section 3A added**

After section 3—

**Add**

**“3A. Application of provisions for serving documents**

(1) This section applies if a provision of this Ordinance applies in relation to a rule of law that requires or permits a document to be served on a person.

(2) A reference to “serve” in the provision is to be construed as including a reference in the rule of law to, as the case requires, any of the following—

- (a) “file”, “lodge”, “send”, “give”, “notify”, “serve”, “deliver”, “submit” and “furnish” (including their grammatical variations and cognate expressions);
- (b) any other expression that signifies or suggests serving a document on a person.”.

**5. Section 5 amended (requirement for writing)**

Section 5(1) and (2), English text—

**Repeal**

“or given”

**Substitute**

“, or to be given.”.

**6. Section 5A amended (service of documents)**

(1) Section 5A(1)—

**Repeal**

everything before “be construed”

**Substitute**

“(1) Without limiting section 5, if a provision set out in Schedule 3 requires a document to be served on a person, the provision is to”.

(2) Section 5A(2)—

**Repeal**

everything before “be construed”

**Substitute**

“(2) Without limiting section 5, if a provision set out in Schedule 3 permits a document to be served on a person, the provision is to”.

(3) After section 5A(2)—

**Add**

“(3) Subsections (1) and (2) apply regardless of whether there is any specification as to the mode of service of a document in the provision.

(4) For the purposes of subsections (1) and (2), even if the provision requires, or permits, more than one copy of the document to be served on the person, the provision is to be construed as also providing that service of a single copy of the document in such form satisfies the requirement, or is permitted, under the provision.”.

**7. Section 15 amended (consent required for sections 5, 5A and 7 to apply to transactions between persons who are not government entities)**

Section 15(2A) and (2B)—

**Repeal**

“by personal service or by post”.

**8. Section 16 amended (sections 5, 6, 7 and 8 not to have effect if their operation affects other statutory requirements)**

Section 16(1), English text—

**Repeal**

“or given”

**Substitute**

“, or to be given,”.

**9. Schedule 3 amended (service of documents)**

Schedule 3—

**Add**

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|---|---------------|
| “16. Commercial Bathhouses Regulation (Cap. 132 sub. leg. I)      | Section 5(1)  |
| 17. Food Business Regulation (Cap. 132 sub. leg. X)               | Section 32(1) |
| 18. Frozen Confections Regulation (Cap. 132 sub. leg. AC)         | Section 18(1) |
| 19. Milk Regulation (Cap. 132 sub. leg. AQ)                       | Section 15(1) |
| 20. Offensive Trades Regulation (Cap. 132 sub. leg. AX)           | Section 9(2)  |
| 21. Aerial Ropeways (Safety) Ordinance (Cap. 211)                 | Section 7     |
| 22. News Agencies Registration Regulations (Cap. 268 sub. leg. A) | Regulation 12 |

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|-----|---|--|
| 23. | Newspapers Registration and Distribution Regulations (Cap. 268 sub. leg. B) | Regulation 11  |
| 24. | Road Traffic Ordinance (Cap. 374)   | Sections 79, 84(1)(d) and 85(1)(c)   |
| 25. | Film Censorship Ordinance (Cap. 392)  | Sections 8A(3), 9(4), 14A(2), 15B(9), 15I(1), 15K(12), 17(2)(c) and (4), 18(2), (3)(c) and (5) and 19(3), (4)(c) and (6) |
| 26. | Film Censorship Regulations (Cap. 392 sub. leg. A)                          | Regulation 8(a)  |
| 27. | Land Drainage Ordinance (Cap. 446)  | Section 45(1)".  |
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## **Part 3**

### **Amendment to Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B)**

- 10. Schedule 1 amended (provisions excluded from application of section 5 of Ordinance)**

Schedule 1—

**Repeal items 19, 20, 21, 22, 23 and 33.**

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## Part 4

### Related Amendments to Building (Administration) Regulations (Cap. 123 sub. leg. A)

**11. Regulation 6A amended (documents excluded from application of sections 5, 5A and 6 of Electronic Transactions Ordinance)**

- (1) Regulation 6A, English text, notes without legislative effect, paragraph 2—

**Repeal**

“or given in writing”

**Substitute**

“, or to be given, in writing”.

- (2) Regulation 6A, notes without legislative effect, paragraph 2—

**Repeal**

“or given in the”

**Substitute**

“, or may not be given, in the”.

- (3) Regulation 6A, notes without legislative effect, paragraph 3—

**Repeal**

“by personal service or by post”

**Substitute**

“on a person”.

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## **Explanatory Memorandum**

The main object of this Bill is to amend the Electronic Transactions Ordinance (Cap. 553) (*principal Ordinance*) and the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) (*Order*) to facilitate various government bureaux and departments in implementing e-services.

### **Part 1—Preliminary**

2. Clause 1 sets out the short title.
3. Clause 2 introduces the enactments that are amended by the Bill.

### **Part 2—Amendments to principal Ordinance**

4. Clause 4 adds a new section 3A to the principal Ordinance to specify how a provision of the principal Ordinance for serving documents is to be applicable.
5. Clause 6 amends section 5A of the principal Ordinance to extend the scope of application of that section so as to allow service of a document in the form of an electronic record where the document is required or permitted to be served on a person under a statutory provision set out in Schedule 3 to the principal Ordinance. In case such a statutory provision requires or permits more than one copy of the document to be served on the person, service of a single copy of the document in such form would suffice.

6. Clause 9 amends Schedule 3 to the principal Ordinance by adding certain statutory provisions to which section 5A of the principal Ordinance is to apply.
7. Clauses 3(2) and 7 respectively amend sections 3(aa) and 15 of the principal Ordinance to provide for related amendments, whereas clauses 3(1), 5 and 8 respectively provide for technical amendments to sections 3(a), 5 and 16 of the principal Ordinance.

### **Part 3—Amendment to Order**

8. Clause 10 amends Schedule 1 to the Order so that certain statutory provisions are no longer excluded from the application of section 5 of the principal Ordinance.

### **Part 4—Related Amendments to Building (Administration) Regulations (Cap. 123 sub. leg. A)**

9. Clause 11 contains technical and related amendments to the Building (Administration) Regulations (Cap. 123 sub. leg. A).