

L.N. 111 of 2024

Court Proceedings (Electronic Technology) (Small Claims Tribunal) Rules

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Court Proceedings (Electronic Technology) (Small Claims Tribunal) 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 31 October 2024.

2. Interpretation

In these Rules—

adjudicator (審裁官) means a person appointed under section 4 or 4A of the SCTO;

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 tribunal 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;
- (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); or
- (d) any time during which the office is directed by the Chief Justice or the Registrar to be closed to the public;

direction of the Tribunal (審裁處指示) means a direction given by the Small Claims Tribunal or an adjudicator;

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

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 Tribunal 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;

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

SCTO (《審裁處條例》) means the Small Claims Tribunal Ordinance (Cap. 338);

Small Claims Tribunal (小額錢債審裁處) means the Small Claims Tribunal established by section 3 of the SCTO;

Tribunal (審裁處) means the Small Claims Tribunal, an adjudicator or a tribunal office;

tribunal office (審裁處辦事處) means the registry of the Small Claims Tribunal or an office of the Small Claims Tribunal;

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

Part 2

Authorization for Use of e-system

3. Authorization for use of e-system

The use of an e-system is authorized for a proceeding in the Tribunal conducted under the SCTO for which the use of electronic technology has been implemented under an implementation notice.

Part 3

Non-compliance with these Rules

4. 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 Tribunal 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 SCTO and make such order as it considers appropriate.
- (3) The Tribunal may set aside the proceeding, step, document, judgment or order, or exercise the powers, as mentioned in subrule (2)—
 - (a) on its own motion; or
 - (b) on an application by a party to the proceeding.

Part 4

Documents Sent to Tribunal by Means of e-system

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

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

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

- (1) This rule applies to a document sent to the Tribunal by means of an e-system other than a document sent to the Tribunal for issue out of the Tribunal.
- (2) When the document is given system confirmation, the document is taken to have been received by the Tribunal 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 Tribunal 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) If an e-fee is payable for sending the document to the Tribunal, an initial receipt given for the document before the transaction concerned is completed does not have effect for the purposes of subrules (2) and (3).

(6) In this rule—

e-fee (電子費用) has the meaning given by rule 2 of the Court Proceedings (Electronic Technology) (Small Claims Tribunal) (Electronic Fees) Rules;

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 Small Claims Tribunal;

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. Issuing time of documents sent to Tribunal by means of e-system

(1) This rule applies to a document that—

- (a) is sent by a registered user or an Organization User account holder to the Tribunal by means of an e-system for issue out of the Tribunal; and
- (b) has been issued out of the Tribunal, whether amended by the Tribunal or not.

(2) The document is taken to have been issued out of the Tribunal at the time it was sent by the Tribunal to the registered user or the Organization User account holder (as the case requires) by means of an e-system.

8. Sending electronic copies to Tribunal instead of producing paper documents

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

- (5) Without affecting subrules (3) and (4), in making an order that a document be produced to the Tribunal under the SCTO, the Tribunal may instead permit the document to be sent to the Tribunal in electronic form by means of an e-system.
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Part 5

Conversion of Form of Documents by Tribunal

9. Tribunal may convert document from one form into another

- (1) If a document is sent by or to the Tribunal in paper form, the Tribunal 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 Tribunal in electronic form, the Tribunal 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) any other purpose the Tribunal 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

10. 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;

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

SCT General Rules (《審裁處一般規則》) means the Small Claims Tribunal (General) Rules (Cap. 338 sub. leg. A);

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

11. Application of Part 6

- (1) This Part applies if a provision of written law or a direction of the Tribunal 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 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 Tribunal—
 - (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.

12. 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.

13. Electronic service of documents

- (1) If the condition specified in rule 14(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) Subrule (1) does not affect the operation of rule 6 of the SCT General Rules.

14. Consent to acceptance of service by electronic transmission

- (1) For the purposes of rule 13(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.

15. 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.

16. 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.

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

A notice mentioned in rule 15(1) or 16(1) may be served by the receiving person of a document on the serving person of the document—

- (a) in accordance with rule 5 of the SCT General Rules;
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.

18. When electronic service is effected

(1) If a document is served under rule 13 or 17(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 7

Electronic Authentication of Documents

Division 1—Interpretation

19. 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 27;

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 26;

scanned electronic signature (經掃描電子簽署) means an electronic signature that complies with the conditions specified in rule 25;

signer (簽署人) means a person referred to in rule 21(a).

Division 2—Authentication of Documents Sent by Tribunal

20. Authentication of documents sent by Tribunal

(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 Tribunal; 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 specified in e-practice directions.
- (3) The person is—
 - (a) an adjudicator; or
 - (b) any other officer authorized to sign or certify a document under the SCTO.
- (4) Subrule (5) applies to a document that—
 - (a) is required or permitted to be sealed by the Tribunal under a provision of written law or a direction of the Tribunal; and
 - (b) is in electronic form.
- (5) The document must be sealed in a way specified in e-practice directions.

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

21. 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 Tribunal; and
- (b) is sent to the Tribunal by means of an e-system.

22. Authentication of affidavits sent to Tribunal

A document that is an affidavit (except an affidavit proving due service of a 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 specified in e-practice directions.

23. Authentication of other documents sent to Tribunal

(1) Unless rule 22 applies to a document, the document 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 specified in 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 Tribunal by means of an e-system.

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

24. 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 Tribunal; and
- (c) is not sent to the Tribunal.

(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

25. 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.

26. 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.

27. 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 Commissioner for Digital Policy;
- (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 Commissioner for Digital Policy 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

28. Interpretation of Part 8

In this Part—

Labour Tribunal (勞資審裁處) means the Labour Tribunal established by section 3 of the Labour Tribunal Ordinance (Cap. 25);

non-e-Court (非電子法院)—

- (a) means a court that is not an e-Court; and
- (b) includes the Minor Employment Claims Adjudication Board established by section 3 of the Minor Employment Claims Adjudication Board Ordinance (Cap. 453);

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

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

29. Transfer of proceedings from Small Claims Tribunal to non-e-Court

- (1) This rule applies if an order is made by the Small Claims Tribunal for the transfer of a proceeding from the Small Claims Tribunal 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.

30. Transfer of proceedings from Labour Tribunal to Small Claims Tribunal

- (1) This rule applies if an order is made by the Labour Tribunal for the transfer of a proceeding from the Labour Tribunal to the Small Claims Tribunal.
 - (2) On receiving a transfer document in relation to the proceeding from the Labour Tribunal, 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 Small Claims Tribunal for the proceeding transferred.
-

Part 9

Electronic Payments

31. 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 Tribunal 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 Tribunal at whichever is the earlier of the following times—
 - (a) the time when the accounts office of the Tribunal 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 Tribunal; and
 - (b) is not a time during which the accounts office is open for the proceeding to which the payment relates.

Andrew CHEUNG
Chief Justice

27 June 2024

Explanatory Note

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

- (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 by or in relation to an e-Court.
2. These Rules authorize the use of an e-system for proceedings in the Small Claims Tribunal (**SCT**) (Part 2).
3. These Rules also prescribe the practice and procedure for using electronic technology for the following matters—
 - (a) documents that are sent to the SCT in electronic form by means of an e-system (Part 4);
 - (b) conversion of documents by the SCT 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).
4. 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 SCT to the Minor Employment Claims Adjudication Board or a court that is not an e-Court, or from the Labour Tribunal to the SCT (Part 8).