

Leaflet 5

How a party may send a document to another party in the proceedings by electronic means?

This leaflet is designed to provide you with a brief outline on how you may send a document to another party in the proceedings by electronic means under the Court Proceedings (Electronic Technology) Ordinance (Cap.638) (“Ordinance”).

You should read the Ordinance as well as the Court Proceedings (Electronic Technology) (District Court Civil Proceedings) Rules (Cap.638C) (“e-Rules”) and e-Practice Direction 1 made thereunder for full details. They are available at https://www.judiciary.hk/en/e_courts/refmat_index.html.



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This leaflet does not touch upon any law on civil right, claim or liability.

1. Under the Ordinance, you may send documents in electronic form to another party in the proceedings (“electronic mode”):
 - (a) if the receiving person is within the jurisdiction or represented by a firm of solicitors in Hong Kong¹;
 - (b) if you are required to serve the document by means of personal service or by post and personal service is not the only permissible mode of service; and
 - (c) if the receiving person has consented to accept service of documents by electronic transmission and designated an information system (eg an email address) for such purpose².
2. Consent to accept service of documents by electronic transmission must be unconditional and must not be given orally.
 - (a) You may give consent by (i) serving a Notice of Acceptance of Electronic Service (at Annex A of e-Practice Direction 1)³ ; or (ii) publishing a general consent at your webpage. The consent takes effect at the time when the notice is given and if the notice is given by post, it takes effect on the day of posting. The consent remains valid until it is withdrawn.
 - (b) You may change the designated information system for receiving documents by electronic transmission by filing and serving a Notice of Change of Designated Information System (at Annex C of e-Practice Direction 1). The change takes effect when the notice is served.
 - (c) You may withdraw your consent by filing and serving a Notice of Withdrawal of Consent (at Annex B of e-Practice Direction 1). The withdrawal takes effect when the notice is served.
3. Electronic service of a document is effected by sending the document to the information system designated by the receiving person by electronic transmission.
4. Date of Service of electronic service:
 - (a) If an originating process is served by electronic service, the date of service shall, unless the contrary is shown, be deemed to have been served on the seventh day after the day on which the document is sent by electronic transmission.
 - (b) For other documents served by electronic service, the date of service shall, unless the contrary is shown, be deemed to be on the business day following the day of service by electronic transmission.

¹ If you have obtained leave under Order 11 of the Rules of the District Court to serve out of the jurisdiction, please effect service in compliance with the order.

² The e-system may not be used for inter-parte service.

³ There is no need to file the Notice.

5. An affidavit proving due service by electronic service must:
 - (a) exhibit the record evidencing the consent and designation of an information system by the receiving person;
 - (b) contain a statement to the effect that in the opinion of the deponent or process server, the document was sent successfully by electronic transmission, and exhibit the record evidencing the sending of the document by electronic transmission; and
 - (c) for service of an originating document, contain a statement to the effect that in the opinion of the deponent or process server, the document will have come to the knowledge of the receiving person within 7 days following the day on which the document is sent by electronic transmission.
6. If, after judgment has been entered in default of appearance, you become aware that the copy of the writ was not sent successfully, you should:
 - (a) make a request for the judgment to be set aside on the ground that the writ has not been duly served; or
 - (b) apply to the Court for directions.