



Guidance Note on the Procedures
of Appeal Against Decisions of the
Director of Information Technology Services
under the Electronic Transactions Ordinance (Cap. 553)

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Introduction

1. The information contained in this guidance note does not form part of the Code of Practice for Recognized Certification Authorities (Code of Practice) and it is not intended to affect your rights and obligations. It is not intended to be relied upon as a statement of the legal position and you should consult your legal adviser before acting upon the information.
2. In accordance with section 28 of the Electronic Transactions Ordinance (Cap. 553) (the Ordinance), a certification authority (CA) aggrieved by a decision of the Director of Information Technology Services (the Director) –
 - (a) refusing an application for recognition under section 21 or 22 of the Ordinance;
 - (b) refusing an application for renewal of a recognition under section 22 or 27 of the Ordinance; or
 - (c) revoking or suspending a recognition under section 23 or 24 of the Ordinance,

may appeal to the Secretary for Information Technology and Broadcasting (the Secretary) against the decision within 7 days from the date on which the relevant decision is made.

Appeal Procedures

3. An appeal under section 28(1) of the Ordinance made by a CA must be commenced by sending a notice of appeal to the Secretary as an electronic record or delivering the notice by hand to the Secretary or leaving the notice at the office of the Secretary during the ordinary business hours of that office, as stipulated under section 28(2) of the Ordinance.
4. A CA who appeals to the Secretary under section 28(1) of the Ordinance must also give notice of the appeal to the Director as soon as practicable, in accordance with section 28(3) of the Ordinance.
5. The Director must give notice in the relevant certification authority disclosure record, immediately when the Director receives a notice of appeal under section 28(3) of the Ordinance, as stipulated under section 32(1)(f) of the Ordinance.
6. On appeal under section 28(1) of the Ordinance, the Secretary may under section 28(4) of the Ordinance confirm, vary or reverse the decision of the Director.

7. The Secretary must under section 28(5) of the Ordinance give the appellant notice of the decision on appeal, together with reasons –
 - (a) by sending it to the appellant as an electronic record; or
 - (b) by sending it by post or registered post to the last known address of the appellant.
8. If in a particular case, it is not reasonably practicable to give the notice of the decision on appeal by either of the means specified in paragraph 7, by virtue of section 28(6) of the Ordinance, the notice is taken to have been given if the Secretary publishes it in the certification authority disclosure record maintained by the Director under section 31 of the Ordinance for the appellant.
9. The Director must give notice in the relevant certification authority disclosure record, immediately on becoming aware that the Secretary has confirmed, varied or reversed the decision of the Director in accordance with section 32(1)(g) of the Ordinance.