

C044e

Provide for miscellaneous amendments to various Ordinances and for connected purposes.

Enacted by the Legislative Council.

PART I

General

1. Short title

This Ordinance may be cited as the Statute Law (Miscellaneous Provisions) Ordinance 2001.

2. Commencement

(1) This Ordinance, other than sections 7, 102(b) and 130, shall come into operation on the day on which it is published in the Gazette.

(2) Section 7 shall be deemed to have come into operation on 17 February 1997.

(3) Section 102(b) shall be deemed to have come into operation on 1 July 1997.

(4) Section 130 shall be deemed to have come into operation on 26 May 2000.

(5) Subsection (3) shall be subject to Article 12 of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383).

PART II

Amendments Consequential to Repeal of Certain

Provisions of Magistrates Ordinance

Employees Compensation Assistance Ordinance

3. Offences

Section 40(4) of the Employees Compensation Assistance Ordinance (Cap. 365) is amended by repealing ", for the purposes of section 8(1B) of the Magistrates Ordinance (Cap. 227),".

Kowloon-Canton Railway Corporation Ordinance

4. Corporation may prosecute in its name etc.

Section 37(2) of the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) is amended by repealing ", for the purposes of section 8(1B) of the Magistrates Ordinance (Cap. 227),".

Protection of Wages on Insolvency Ordinance

5. Offences

Section 26(4) of the Protection of Wages on Insolvency Ordinance (Cap. 380) is amended by repealing ", for the purposes of section 8(1B) of the Magistrates Ordinance (Cap. 227),".

PART III

Enforcement of Compensation Order

Criminal Procedure Ordinance

6. Subheading substituted

The subheading "Costs and compensation" in Part III of the Criminal Procedure Ordinance (Cap. 221) is repealed and the following substituted---

"Compensation".

7. Power to award compensation

Section 73 is amended---

(a) in subsection (2), by repealing everything after "convicted" and substituting a full stop;

(b) by adding---

"(3) If before an order for compensation is made, any money---

(a) was taken from the person so convicted

on his apprehension, arrest, being taken into custody or his surrender to custody; or

(b) was paid into court by the person so convicted,

the court may, on making the order, order that the compensation be paid out of any money so taken or paid.

(4) Subsection (3) shall not apply to any money that is a first charge for the benefit of the Director of Legal Aid within the meaning of section 18A(1) of the Legal Aid Ordinance (Cap. 91).

(5) Payment of the compensation may be enforced at the instance of any person liable to pay or who may have paid the compensation in the same way as a judgment debt."

PART IV

Power of Court of Appeal and Appeal Committee

to Award Costs

Hong Kong Court of Final Appeal Ordinance

8. Costs

Section 43 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is amended---

(a) by renumbering it as section 43(1);

(b) by adding---

"(2) Where the Appeal Committee refuses an application for leave to appeal, the costs of and occasioned by the application shall be paid by such party or person as the Appeal Committee shall order, and such costs shall be taxed by the Registrar, or some other officer of the Court to whom the Registrar may delegate this function."

Costs in Criminal Cases Ordinance

9. Section added

The Costs in Criminal Cases Ordinance (Cap. 492) is amended by adding---

"9A. Defence costs where Court of Appeal dismisses appeal by way of case stated

If the Court of Appeal dismisses an appeal under section 84 of the District Court Ordinance (Cap. 336), the Court of Appeal may order that costs be awarded to the defendant.".

10. Section added

The following is added---

"13A. Prosecution costs where Court of Appeal allows appeal by way of case stated

If on hearing an appeal under section 84 of the District Court Ordinance (Cap. 336), the Court of Appeal reverses the verdict or order of acquittal, the Court of Appeal may order that costs be awarded to the prosecutor.".

PART V

Marital Rape and Related Sexual Offences

Crimes Ordinance

11. Interpretation

Section 117 of the Crimes Ordinance (Cap. 200) is amended by adding---

"(1B) For the purposes of this Part, "unlawful sexual intercourse" (非法性交、非法的性交) includes sexual intercourse between a husband and his wife if---

- (a) at the time of the intercourse the wife does not consent to it; and
- (b) at the time of the intercourse the husband knows that his wife does not consent to it or he is reckless as to whether she consents to it.

(1C) For the purposes of this Part, where a person's lack of consent to a certain act is an element of, or relevant to, a sexual or related offence, "consent" (同意) means a free, genuine and subsisting agreement to the act, and the agreement---

- (a) may be express or implied; and
- (b) may be evidenced by words or conduct, whether present or past.".

12. Rape

Section 118 is amended---

- (a) in subsection (3)(a), by repealing "unlawful";
- (b) by adding---

"(3A) For the avoidance of doubt, it is declared that in subsection (3)(a), "sexual intercourse" (性交) includes sexual intercourse between a husband and his wife.".

13. Procurement by threats

Section 119(1) is amended by adding "or marital intercourse" after "act".

14. Procurement by false pretences

Section 120(1) is amended by adding "or marital intercourse" after "act".
15. Administering drugs to obtain or facilitate unlawful sexual act or marital intercourse

Section 121(1) is amended by adding "or marital intercourse" after "act".
16. Intercourse with girl under 16

Section 124(2) is amended by adding "she consents to the intercourse and" after "if".

17. Indecent conduct towards child under 16

Section 146(3) is repealed and the following substituted---

"(3) A person who commits an act of gross indecency with or towards a child or who incites a child to commit an act of gross indecency with or towards him or her is not guilty of an offence under this section if---

(a) that person is, or believes on reasonable grounds that he or she is, married to the child; and

(b) the child consents to the act of gross indecency."

PART VI

Consideration of Bail Applications

Fugitive Offenders Ordinance

18. Proceedings for committal

Section 10(5) of the Fugitive Offenders Ordinance (Cap. 503) is amended by repealing "the court of committal shall not" and substituting "neither the court of committal nor any other court shall".

PART VII

Power of Court to Order Repayment of Deposit

Conveyancing and Property Ordinance

19. Application to court by vendor and purchaser

Section 12 of the Conveyancing and Property Ordinance (Cap. 219) is amended by adding---

"(1A) Where the court refuses to grant specific performance of a contract, or in any action for the return of a deposit, the court may, if it thinks fit, order the repayment of any deposit.

(1B) Any term of a contract made on or after the commencement of section 19 of the Statute Law (Miscellaneous Provisions) Ordinance 2001 (of 2001) that purports to exclude the jurisdiction of the court to order the repayment of any deposit under subsection (1A) shall be void."

PART VIII

Amendment of Administrative Appeals Board Ordinance

20. Appeals to the Board

Section 9 of the Administrative Appeals Board Ordinance (Cap. 442) is amended by repealing "aggrieved by a decision made in respect of him who wishes to appeal to the Board" and substituting "who may appeal to the Board under a provision of an Ordinance and wishes to do so".

21. Schedule amended

The Schedule is amended---

(a) in the Chinese text in item 5, by repealing "Quarries (Safety) Regulations" and substituting "《石礦場 (安全) 規例》";

(b) in the Chinese text in item 6, by repealing "Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations" and substituting "《工廠及工業經營 (安全主任及安全督導員) 規例》";

(c) in item 9, by repealing "Acetylating Substances (Control) Ordinance" and substituting "Control of Chemicals Ordinance";

(d) in the Chinese text in item 19, by repealing "Mining (General) Regulations" and substituting "《礦務 (一般) 規例》";

(e) in the Chinese text in item 21, by repealing "Dangerous Goods (General) Regulations" and substituting "《危險品 (一般) 規例》";

(f) in item 22, by adding---

"(d) The service of a notice under section 9(5) by the Commissioner of Inland Revenue that an exemption is not granted.";

(g) in the Chinese text in item 25, by repealing "Chinese Permanent Cemeteries Rules" and substituting "《華人永遠墳場規則》";

(h) by repealing everything after item 49 and substituting---

"50. Dutiable Commodities A forfeiture of security Regulations (Cap. 109 under regulation 27(2).
sub. leg.)

51. Security and Guarding A decision under section Services Ordinance 14(5), 15(3), 16(4), 18(4), (Cap. 460) 21(2), 23(4), 24(4), 24A(13) or 25(4).

52. Merchant Shipping A decision of the (Seafarers) Ordinance Superintendent of the (Cap. 478) Mercantile Marine Office---

(a) to refuse to grant a permit;

(b) to impose any condition under section 52(3);

(c) to refuse to approve any person for the purposes of section 57(1); or

(d) to cancel a permit.

53. Merchant Shipping A decision of the Seafarers' Authority under section 8(2) or 10(2) to refuse to issue a certificate or licence. (Cap. 478 sub. leg.)

54. Merchant Shipping A decision of the Seafarers' Authority to refuse to make an entry referred to in section 5(2) or (3) in an employment registration book, service record book or discharge book. (Cap. 478 sub. leg.)

55. Merchant Shipping A decision of the Seafarers' Authority to refuse to issue an Engine Room Watch Rating Certificate under section 5(1). (Cap. 478 sub. leg.)

56. Merchant Shipping A decision of the Seafarers' Authority to refuse to issue a Navigational Watch Rating Certificate under section 5(1). (Cap. 478 sub. leg.)

57. Merchant Shipping A decision of the Seafarers' Authority--- (a) under section 6(3) to refuse an application for the grant of a certificate of competency as A.B.; or (b) under section 10 (whether to confirm, vary or reverse the decision concerned of the examiner or to substitute another decision for that decision). (Cap. 478 sub. leg.)

58. Merchant Shipping A decision of the Seafarers' Authority--- (a) to refuse to issue a certificate of proficiency in survival craft and rescue boats under section 4; (b) to refuse to issue a certificate of proficiency in fast rescue boats under section 4A; or (c) to cancel a certificate of proficiency in survival craft and rescue boats or a

certificate of proficiency in fast rescue boats under section 7(2).".

PART IX

Change of Name and Widening the Powers of the Hong Kong Examinations Authority Hong Kong Examinations Authority Ordinance

22. Long title amended

The long title to the Hong Kong Examinations Authority Ordinance (Cap. 261) is amended by adding "and Assessment" after "Examinations".

23. Short title

Section 1 is amended by adding "and Assessment" after "Examinations".

24. Interpretation

Section 2 is amended in the definition of "Authority"---

(a) by repealing "(考試局)" and substituting "(考評局)";

(b) by adding "and Assessment" after "Examinations".

25. Establishment of Authority

Section 3(1) is amended by adding "and Assessment" after "Examinations".

26. Incorporation

Section 5 is amended by adding "and Assessment" after "Examinations".

27. Powers and duties of the Authority

Section 7 is amended---

(a) in subsection (1), by adding "and assessments" after "conducting examinations";

(b) in subsection (2)---

(i) in paragraph (c)---

(A) by repealing "or category of examinations" and substituting "or assessment or any category of examinations or assessments";

(B) by repealing "sitting those examinations" and substituting "taking those examinations or assessments";

(ii) in paragraph (d), by repealing "sitting examinations" and substituting "taking examinations or assessments";

(iii) in paragraph (e), by repealing "Secretary" and substituting "Secretary General";

(iv) in paragraph (g), by adding "or assessments" after "examinations".

28. Publication of examination and assessment results

Section 8A is amended by adding "or assessment" after "examination".

29. Resources of the Authority

Section 9(a) is amended by repealing "or examinations" and substituting "or taking examinations or assessments".

30. Members of the Authority

Schedule 2 is amended in paragraph (a)---

(a) by repealing subparagraph (iv);

(b) in subparagraph (viii), by repealing "Secretary" and substituting "Secretary General".

31. "考評局" substituted for "考試局"

Sections 3(2), (3), (4), (5), (6), (7), (8), (9), (11) and (12), 4, 7(1) and (2), 8A, 9, 10, 11, 12, 12A(1), 13, 14, 15(2)(a) and 16 and Schedule 2 are amended by repealing "考試局" wherever it appears and substituting "考評局".

32. Transitional provision

Where the term "Secretary" or "秘書" referred to in section 7(2)(e) of the Hong Kong Examinations and Assessment Authority Ordinance (Cap. 261) ("principal Ordinance") as in force immediately before the date of commencement of section 27 is used in or in relation to---

(a) any instrument, contract or legal proceeding that is in force or pending immediately before that date; or

(b) any appointment made under the principal Ordinance before that date and which is in force immediately before that date,

then, on and after that date, the terms "Secretary General" and "秘書長" shall be deemed to be respectively substituted therefor, and the instrument, contract, legal proceeding or appointment, as the case may be, shall be construed accordingly.

Consequential Amendments

Prevention of Bribery Ordinance

33. Public bodies

Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) is amended in item 39 by adding "and Assessment" after "Examinations".

The Ombudsman Ordinance

34. Organizations to which this

Ordinance applies

Schedule 1 to The Ombudsman Ordinance (Cap. 397) is amended in Part I by repealing "The Hong Kong Examinations Authority" and substituting "The Hong Kong Examinations and Assessment Authority".

PART X

"Non-Immunity" Clauses

Consumer Council Ordinance

35. Council not servant or agent

of the Government

Section 17 of the Consumer Council Ordinance (Cap. 216) is amended by repealing

"Crown" where it twice appears and substituting "Government".

Hong Kong Examinations and Assessment
Authority Ordinance

36. Authority not servant or agent
of the Government

Section 14 of the Hong Kong Examinations and Assessment Authority Ordinance (Cap. 261) is amended by repealing "Crown" where it twice appears and substituting "Government".

Employees Compensation Assistance Ordinance
37. Constitution of the Board

Section 3(6) of the Employees Compensation Assistance Ordinance (Cap. 365) is amended by repealing "Crown" where it twice appears and substituting "Government".

Kowloon-Canton Railway Corporation Ordinance

38. Provisions with respect to the Corporation
and members thereof

The First Schedule to the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) is amended in paragraph 2 by repealing "Crown" where it twice appears and substituting "Government".

Protection of Wages on Insolvency Ordinance

39. Protection of Wages on
Insolvency Fund Board

The Schedule to the Protection of Wages on Insolvency Ordinance (Cap. 380) is amended in paragraph 1 by repealing "Crown" where it twice appears and substituting "Government".

Ocean Park Corporation Ordinance

40. Corporation not servant or agent
of the Government

Section 36 of the Ocean Park Corporation Ordinance (Cap. 388) is amended by repealing "Crown" where it twice appears and substituting "Government".

Hong Kong Council on Smoking and Health Ordinance

41. Council not servant or agent
of the Government

Section 18 of the Hong Kong Council on Smoking and Health Ordinance (Cap. 389) is amended by repealing "Crown" where it twice appears and substituting "Government".

Occupational Safety and Health Council Ordinance

42. Provisions with respect to the Council
and Members thereof

The Schedule to the Occupational Safety and Health Council Ordinance (Cap. 398) is amended in paragraph 2 by repealing "Crown" where it twice appears and substituting "Government".

Employees' Compensation Insurance Levies Ordinance

43. Provisions with respect to the Board
and members thereof

Schedule 1 to the Employees' Compensation Insurance Levies Ordinance (Cap. 411) is amended in paragraph 2 by repealing "Crown" where it twice appears and substituting "Government".

Employees Retraining Ordinance

44. Provisions as respects the Board
and the members thereof

Schedule 1 to the Employees Retraining Ordinance (Cap. 423) is amended in section 2 by repealing "Crown" where it twice appears and substituting "Government".

Estate Agents Ordinance

45. Constitution, etc. of the Authority

The Schedule to the Estate Agents Ordinance (Cap. 511) is amended in section 2 by repealing "Crown" where it twice appears and substituting "Government".

The Prince Philip Dental Hospital Ordinance

46. Board not servant or agent
of the Government

Section 19 of The Prince Philip Dental Hospital Ordinance (Cap. 1081) is amended by repealing "Crown" where it twice appears and substituting "Government".

Vocational Training Council Ordinance

47. Council not servant or agent
of the Government

Section 21 of the Vocational Training Council Ordinance (Cap. 1130) is amended by repealing "Crown" where it twice appears and substituting "Government".

Hong Kong Sports Development Board Ordinance

48. Provisions as respects the Board
and its members

The Schedule to the Hong Kong Sports Development Board Ordinance (Cap. 1149) is amended in paragraph 2 by repealing "Crown" where it twice appears and substituting "Government".

Hong Kong Council for Academic Accreditation Ordinance

49. Council not to be regarded as servant
or agent of the Government

Section 24 of the Hong Kong Council for Academic Accreditation Ordinance (Cap.

1150) is amended by repealing "Crown" where it twice appears and substituting "Government".

PART XI

Miscellaneous Amendments to Ordinances

Relating to Tertiary Institutions

The Hong Kong Institute of Education Ordinance

50. Interpretation

Section 2 of The Hong Kong Institute of Education Ordinance (Cap. 444) is amended---

(a) by repealing the definition of "Director" and "Deputy Director" and substituting---

"President" (校長) and "Vice President" (副校長) mean respectively the President and a Vice President of the Institute appointed under section 11(1).";

(b) by repealing the definition of "President" (校監) and substituting---

"Chancellor" (校監) means the Chancellor of the Institute provided for under section 6;".

51. Part heading amended

The heading to Part III is amended by repealing "President" and substituting "Chancellor".

52. The Chancellor

Section 6 is amended by repealing "President" where it twice appears and substituting "Chancellor".

53. Membership of the Council

Section 8 is amended---

(a) in subsection (1)---

(i) in paragraph (a), by repealing "Director" and substituting "President";

(ii) in paragraph (b), by repealing "Deputy Directors" and substituting "Vice Presidents";

(iii) in paragraph (d), by repealing "President" and substituting "Council";

(iv) in paragraph (e), by adding "from among their member" after "elected";

(v) in paragraph (f), by repealing "President" wherever it appears and substituting "Chief Executive";

(vi) in paragraph (g), by repealing "President" and substituting "Council";

(b) in subsection (2), by repealing "President" and substituting "Chief Executive";

(c) in subsection (4)(a) and (b), by repealing "President" and substituting "appointor";

(d) by adding---

"(4A) A member who became a member of the Council under subsection (1)(d) shall

cease to be a member of the Council when he ceases to be a member of the Academic Board.";

(e) in subsection (5), by adding "but shall cease to be a member of the Council when he ceases to be a member of the body that elected him" after "years".

54. Committees of the Council

Section 9(3) is amended---

(a) by repealing "Deputy Director" where it twice appears and substituting "Vice President";

(b) by repealing "Director" where it twice appears and substituting "President".

55. Part heading substituted

The heading to Part IV is repealed and the following substituted---

"President and Vice President".

56. Appointment of President and Vice President

Section 11 is amended---

(a) in subsections (1) and (3), by repealing "Deputy Directors" and substituting "Vice Presidents";

(b) in subsection (2), by repealing "any rules made under section 18 and to";

(c) in subsections (4), (5), (6) and (7), by repealing "Deputy Director" wherever it appears and substituting "Vice President";

(d) by repealing "Director" wherever it appears and substituting "President".

57. Power of the Council to delegate to the President

Section 12 is amended---

(a) by repealing "Deputy Director" and substituting "Vice President";

(b) by repealing "Director" where it twice appears and substituting "President".

58. Admissibility of documents

Section 23 is amended---

(a) by repealing "Director" where it twice appears and substituting "President";

(b) by adding---

"(3) In this section, "President" (校長), in relation to a document or certificate signed before the date of commencement of section 50 of the Statute Law (Miscellaneous Provisions) Ordinance 2001 (of 2001), includes Director within the meaning of section 2 as in force immediately before that date."

59. Transitional provisions

(1) A person who was a member of the Council under section 8(1)(d), (f) or (g) of The Hong Kong Institute of Education Ordinance (Cap. 444) ("principal Ordinance") immediately before the date of commencement of section 53 shall, subject to the provisions of the principal Ordinance as amended by this Ordinance and to the terms

of his appointment, continue to be such a member for the unexpired portion of his term of appointment left to run on that date.

(2) A person who was an office holder of the Council under section 8(2) of the principal Ordinance immediately before the date of commencement of section 53 shall, subject to the provisions of the principal Ordinance as amended by this Ordinance and to the terms of his appointment, continue to be such an office holder for the unexpired portion of his term of appointment left to run on that date.

(3) Where the term "Director", "Deputy Director", "President", "院長" or "副院長", within the meaning of section 2 of the principal Ordinance as in force immediately before the date of commencement of section 50, is used in or in relation to---

(a) any instrument, contract or legal proceeding that is in force or pending immediately before that date; or

(b) any appointment made under the principal Ordinance before that date and which is in force immediately before that date,

then, on and after that date, the terms "President", "Vice President", "Chancellor", "校長" and "副校長", within the meaning of section 2 of the principal Ordinance as amended by this Ordinance, shall be deemed to be respectively substituted therefor, and the instrument, contract, legal proceeding or appointment, as the case may be, shall be construed accordingly.

The Hong Kong Polytechnic University Ordinance

60. Membership of the Council

Section 10 of The Hong Kong Polytechnic University Ordinance (Cap. 1075) is amended---

(a) in subsection (1)(e), by repealing "Chief Executive" and substituting "Council";

(b) by repealing subsections (3) and (4) and substituting---

"(3) A member of the Council appointed under subsection (1)(d) who is a public officer shall hold office at the discretion of the Chief Executive.

(3A) A member appointed under subsection (1)(d) who is not a public officer---

(a) shall be appointed for a period of 3 years or such lesser period as the Chief Executive may in any particular case appoint, but may from time to time be reappointed;

(b) may at any time by notice in writing to the Chief Executive resign from the Council.

(3B) A member appointed by the Council under subsection (1)(c), (e) or (f)-

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(a) shall be appointed for a period of 3 years or such lesser period as the Council may in any particular case appoint, but may from time to time be reappointed;

(b) may at any time by notice in writing to the Chairman of the Council resign from

the Council.

(3C) A member who became a member of the Council under subsection (1)(c) or (f) shall cease to be a member of the Council when he ceases to be a member of the body that elected him.

(4) The provisions of this section are without prejudice to section 42 of the Interpretation and General Clauses Ordinance (Cap. 1).".

61. Transitional provision

A person who was a member of the Council under section 10(1)(e) of The Hong Kong Polytechnic University Ordinance (Cap. 1075) ("principal Ordinance") immediately before the date of commencement of section 60 shall, subject to the provisions of the principal Ordinance as amended by this Ordinance and to the terms of his appointment, continue to be such a member for the unexpired portion of his term of appointment left to run on that date.

The Chinese University of Hong Kong Ordinance

62. Officers

Section 5 of The Chinese University of Hong Kong Ordinance (Cap. 1109) is amended---

(a) in subsection (1), by repealing "總務長" and substituting "財務長";

(b) in subsection (4), by adding "and may confer degrees in the name of the University" after "Statutes";

(c) in subsection (7), by repealing ", except that he may not confer degrees".

63. Congregations

Statute 2 of the Statutes of The Chinese University of Hong Kong in Schedule 1 is amended by repealing paragraph 2 and substituting---

"2. The Chancellor, or in his absence, one of the following persons, shall preside at Congregations---

(a) the Pro-Chancellor;

(b) the Chairman of the Council;

(c) the Vice-Chancellor;

(d) the Pro-Vice-Chancellor who is carrying out the functions and duties of the Vice-Chancellor in the absence of the Vice-Chancellor.".

64. Members of the University

Statute 3 is amended in paragraph (k) by repealing "總務長" and substituting "財務長".

65. The Vice-Chancellor

Statute 6 is amended in paragraph 3(d) by repealing "總務長" and substituting "財務長".

66. The Secretary and other officers

Statute 10 is amended in paragraph 4 by repealing "總務長" and substituting "財務長".

67. The Council

Statute 11 is amended---

(a) by adding---

"3A. The Chairman of the Council may confer degrees in the name of the University.";

(b) in paragraph 8(2)(k), by repealing "總務長" and substituting "財務長".

68. The Administrative and Planning Committee

Statute 13 is amended in paragraph 1(g) by repealing "總務長" and substituting "財務長".

69. Appointment of academic and senior administrative staff

Statute 20 is amended in paragraph 7 by repealing "總務長" and substituting "財務長".

70. Removal from office, membership or appointment

Statute 24 is amended in paragraph 3 by repealing "總務長" and substituting "財務長".

71. Transitional provision

Where the term "總務長" referred to in section 5 of The Chinese University of Hong Kong Ordinance (Cap. 1109) ("principal Ordinance") as in force immediately before the date of commencement of section 62 is used in or in relation to---

(a) any instrument, contract or legal proceeding that is in force or pending immediately before that date; or

(b) any appointment made under the principal Ordinance before that date and which is in force immediately before that date,

then, on and after that date, the term "財務長" shall be deemed to be substituted therefor, and the instrument, contract, legal proceeding or appointment, as the case may be, shall be construed accordingly.

Hong Kong Baptist University Ordinance

72. Membership of the Council

Section 15 of the Hong Kong Baptist University Ordinance (Cap. 1126) is amended---

(a) in subsection (1)---

(i) in paragraph (d), by repealing "Chief Executive" and substituting "Council";

(ii) in paragraph (e), by repealing "and appointed by the Chief Executive" and substituting "from among its number and appointed by the Council";

(b) in subsection (3)(b)---

(i) by adding "appointed by the Chief Executive" after "A member";

(ii) by repealing "but this paragraph shall not apply to an ex officio member";

(c) by adding---

"(3A) (a) Without prejudice to section 42 of the Interpretation and General Clauses Ordinance (Cap. 1), a member appointed by the Council shall be appointed for a period of 3 years or such lesser period as the Council may in any particular case appoint, but may from time to time be reappointed.

(b) A member appointed by the Council may at any time, by notice in writing to the Council, resign from the Council.";

(d) by adding---

"(3B) A member who became a member of the Council under subsection (1)(d) or (e) shall cease to be a member of the Council when he ceases to be a member of the body that elected or nominated him.".

73. Transitional provision

A person who was a member of the Council under section 15(1)(d) or (e) of the Hong Kong Baptist University Ordinance (Cap. 1126) ("principal Ordinance") immediately before the date of commencement of section 72 shall, subject to the provisions of the principal Ordinance as amended by this Ordinance and to the terms of his appointment, continue to be such a member for the unexpired portion of his term of appointment left to run on that date.

City University of Hong Kong Ordinance

74. Interpretation

Section 2 of the City University of Hong Kong Ordinance (Cap. 1132) is amended---

(a) by repealing the definition of "Deputy Vice-Chancellor" and substituting---
""Deputy President" (常務副校長) means the Deputy President of the University appointed under section 14 and includes a person acting as the Deputy President;"

(b) by repealing the definition of "eligible staff";

(c) by repealing the definition of "Pro-Vice-Chancellor" and substituting---
""Vice-President" (副校長) means the Vice-President of the University appointed under section 14(1)(c) and includes a person acting as a Vice-President.";

(d) by repealing the definition of "Vice-Chancellor" and substituting---
""President" (校長) means the President of the University appointed under section 14 and includes a person acting as the President;".

75. Chancellor

Section 4(3) is amended by adding "including honorary degrees and honorary awards" after "University".

76. The Court

Section 8A(3)(a) is amended by repealing "Vice-Chancellor" and substituting "President".

77. Membership of the Council

Section 10 is amended---

(a) in subsection (1)---

(i) in paragraph (a), by repealing "Vice-Chancellor" and substituting "President";

(ii) in paragraph (b), by repealing "Deputy Vice-Chancellor" and substituting "Deputy President";

(iii) by repealing paragraphs (c) and (d) and substituting---

"(c) not more than 4 Vice-Presidents nominated by the President and appointed by the Council;

(d) not more than 5 Deans of faculties or such office holders in an equivalent body of the University nominated by the Senate and appointed by the Council;"

(iv) in paragraph (g), by repealing "Chief Executive" and substituting "Council";

(v) in paragraph (h), by repealing everything after "of staff" and substituting "elected from among their number and appointed by the Council;"

(b) by repealing subsection (3) and substituting---

"(3) A member of the Council appointed under subsection (1)(e) shall hold office at the discretion of the Chief Executive.

(3A) A member of the Council appointed under subsection (1)(f)---

(a) shall be appointed for a period of 3 years or such lesser period as the Chief Executive may in any particular case appoint, but may from time to time be reappointed;

(b) may at any time by notice in writing to the Chief Executive resign from the Council.

(3B) A member appointed by the Council under subsection (1)(g) or (h)---

(a) shall be appointed for a period of 3 years or such lesser period as the Council may in any particular case appoint, but may from time to time be reappointed;

(b) shall cease to be a member of the Council---

(i) when he ceases to meet the criteria of eligibility for nomination by the body that nominated him; or

(ii) when he ceases to be a member of the body that elected him;

(c) may at any time by notice in writing to the Chairman of the Council resign from the Council.";

(c) by adding---

"(5) The provisions of this section are without prejudice to section 42 of

the Interpretation and General Clauses Ordinance (Cap. 1).".

78. Committees generally

Section 13(4) is amended---

(a) in paragraph (a), by adding "any class of" before "persons";

(b) in paragraph (e), by repealing "Vice-Chancellor" wherever it appears and substituting "President".

79. Part heading amended

The heading to Part IV is amended by repealing "Vice-Chancellor, Deputy Vice-Chancellor" and substituting "President, Deputy President".

80. Appointment of President and other staff

Section 14 is amended by repealing "Vice-Chancellor" wherever it appears and substituting "President".

81. Power of the Council to delegate
to the President

Section 15 is amended---

(a) in subsection (1), by repealing "Vice-Chancellor" and substituting "President";

(b) in subsection (2)---

(i) by repealing "Vice-Chancellor" wherever it appears and substituting "President";

(ii) in paragraph (a), by adding "any class of" before "persons".

82. Power of the President to delegate

Section 16 is amended by repealing "Vice-Chancellor" wherever it appears and substituting "President".

83. Senate of the University

Section 17(1)(c) is amended by repealing "courses" where it twice appears and substituting "programmes".

84. Transitional provisions

(1) A person who was a member of the Council under section 10(1)(g) or (h) of the City University of Hong Kong Ordinance (Cap. 1132) ("principal Ordinance") immediately before the date of commencement of section 77 shall, subject to the provisions of the principal Ordinance as amended by this Ordinance and to the terms of his appointment, continue to be such a member for the unexpired portion of his term of appointment left to run on that date.

(2) Where the term "Deputy Vice-Chancellor", "Pro-Vice-Chancellor" or "Vice-Chancellor", within the meaning of section 2 of the principal Ordinance as in force immediately before the date of commencement of section 74, is used in or in relation to---

(a) any instrument, contract or legal proceeding that is in force or pending

immediately before that date; or

(b) any appointment made under the principal Ordinance before that date and which is in force immediately before that date,

then, on and after that date, the terms "Deputy President", "Vice-President" and "President", within the meaning of section 2 of the principal Ordinance as amended by this Ordinance, shall be deemed to be respectively substituted therefor, and the instrument, contract, legal proceeding or appointment, as the case may be, shall be construed accordingly.

The Hong Kong University of Science and Technology Ordinance

85. Membership of the Council

Section 9 of The Hong Kong University of Science and Technology Ordinance (Cap. 1141) is amended---

(a) in subsection (1)(f), by repealing "Chancellor" and substituting "Council";

(b) in subsection (3)---

(i) in paragraph (a), by repealing "section 9(1)(e)" and substituting "subsection (1)(e)";

(ii) by adding---

"(aa) Without prejudice to section 42 of the Interpretation and General Clauses Ordinance (Cap. 1), a member who is appointed under subsection (1)(f)---

(i) shall be appointed for a period of 3 years or such lesser period as the Council may in any particular case specify;

(ii) may from time to time be reappointed; and

(iii) may at any time by notice in writing to the Chairman of the Council resign from the Council.";

(iii) by adding---

"(ab) A member who became a member of the Council under subsection (1)(f) shall cease to be a member of the Council when he ceases to meet the criteria of eligibility for nomination by the Senate.";

(iv) in paragraph (b), by repealing "section 9(1)(f) or (g)" and substituting "subsection (1)(g)".

86. Transitional provision

A person who was a member of the Council under section 9(1)(f) of The Hong Kong University of Science and Technology Ordinance (Cap. 1141) ("principal Ordinance") immediately before the date of commencement of section 85 shall, subject to the provisions of the principal Ordinance as amended by this Ordinance and to the terms of his appointment, continue to be such a member for the unexpired portion of his term of appointment left to run on that date.

The Open University of Hong Kong Ordinance

87. Membership of the Council

Section 8 of The Open University of Hong Kong Ordinance (Cap. 1145) is amended---

(a) in subsection (4A), by repealing ", (g), (h) or (i)";

(b) by adding---

"(4AA) A member of the Council appointed by the Council under subsection (1)(g), (h) or (i)---

(a) shall be appointed for 3 years or such lesser period as the Council may specify in any particular case but shall cease to be a member of the Council when he ceases to be a member of the body that nominated or elected him;

(b) may resign by giving notice in writing to the Chairman of the Council;

(c) may be reappointed.".

Consequential Amendments

Legal Practitioners Ordinance

88. Advisory Committee on Legal Education

Section 74A(2)(d)(iv) of the Legal Practitioners Ordinance (Cap. 159) is amended by repealing "Vice-Chancellor" and substituting "President".

Non-local Higher and Professional Education

(Regulation) Ordinance

89. Local institutions of higher education

Schedule 1 to the Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493) is amended---

(a) in item 3, by repealing "Director" and substituting "President";

(b) in item 8, by repealing "Vice-Chancellor" and substituting "President".

PART XII

Repeal of Legislation Relating to Kai Tak Airport

90. Repeal

The following are repealed---

(a) the Hong Kong Airport (Regulations) Ordinance (Cap. 292);

(b) the Hong Kong Airport Regulations (Cap. 292 sub. leg.);

(c) the Hong Kong Airport (Traffic) Regulations (Cap. 292 sub. leg.);

(d) the Hong Kong Airport (Restricted Areas) Regulations (Cap. 292 sub. leg.);

(e) the Hong Kong Airport (Restricted Areas and Tenant Restricted Areas) Order (Cap. 292 sub. leg.);

(f) the Civil Aviation (Aircraft Noise) (Limitation on Operation of Engines and Auxiliary Power Units) Regulations (Cap. 312 sub. leg.);

(g) the Civil Aviation (Aircraft Noise) (Limitation on Landing or Taking Off of Aircraft) Notice (Cap. 312 sub. leg.).

Consequential and Related Amendments

Public Health and Municipal Services Ordinance

91. Definitions and saving for other enactments

Section 104E(1) of the Public Health and Municipal Services Ordinance (Cap. 132) is amended---

(a) by repealing paragraph (a);

(b) in paragraph (f), by repealing "(a),".

Air Passenger Departure Tax Ordinance

92. Arrest

Section 16(1) of the Air Passenger Departure Tax Ordinance (Cap. 140) is amended by repealing "for the purposes of the Hong Kong Airport (Regulations) Ordinance (Cap. 292),".

Defences (Firing Areas) Ordinance

93. List of Persons to be supplied with Programmes, Notices and Charts

The Second Schedule to the Defences (Firing Areas) Ordinance (Cap. 196) is amended in the entry relating to "Assistant Director-General of Civil Aviation (Air Traffic Management)" by repealing ", Hong Kong Airport".

Magistrates Ordinance

94. Offences to which defendant may
plead guilty by letter

The Third Schedule to the Magistrates Ordinance (Cap. 227) is amended by repealing paragraph 8.

Smoking (Public Health) Ordinance

95. Schedule 3 amended

Schedule 3 to the Smoking (Public Health) Ordinance (Cap. 371) is amended by repealing item 1.

Road Traffic Ordinance

96. Interpretation

Section 2 of the Road Traffic Ordinance (Cap. 374) is amended---

(a) in the definition of "private road", by repealing paragraph (a);

(b) in the definition of "road", by repealing "any place within the Hong Kong Airport designated by the Director-General of Civil Aviation as a car park under the Hong Kong Airport (Traffic) Regulations (Cap. 292 sub. leg.)".

Road Traffic (Public Service Vehicles) Regulations

97. Restrictions on issue of hire car permits
and considerations for issue

Regulation 15(3) of the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg.) is amended---

(a) by repealing "Director-General of Civil Aviation" where it twice appears and

substituting "Airport Authority";

(b) in paragraph (a)(ii), by repealing "Kai Tak Airport" and substituting "the Hong Kong International Airport".

98. Conditions for the user of a private vehicle in respect of which a permit is issued under Part III

Schedule 3 is amended in paragraph 7 by repealing "Kai Tak Airport" and substituting "the Hong Kong International Airport".

Road Traffic (Registration and Licensing of Vehicles) Regulations

99. Movement permits

Regulation 53 of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg.) is amended---

(a) in subregulation (1)---

(i) in paragraph (a), by repealing "; or" and substituting a comma;

(ii) by repealing paragraph (b);

(iii) by repealing "the relevant purpose specified in paragraph (a) or (b)" and substituting "that purpose";

(b) in subregulation (3)(a), by repealing "other than a road within the boundaries of the Hong Kong International Airport,";

(c) by repealing subregulation (5).

PART XIII

Subsidiary Legislation Deemed Laid before Legislative Council

Form of Warrant (To Compel Attendance) Order

100. Subsidiary legislation deemed laid

The Form of Warrant (To Compel Attendance) Order (G.N. 5975 of 1996) published in the Gazette on 27 December 1996 shall be deemed to have been duly laid on the table of the Legislative Council in accordance with the requirements of section 34(1) of the Interpretation and General Clauses Ordinance (Cap. 1).

101. Indemnity

All persons having, with regard to the Order referred to in section 100, a duty to ensure compliance with the requirement under section 34(1) of the Interpretation and General Clauses Ordinance (Cap. 1) to lay the Order on the table of the Legislative Council are indemnified from all liability (if any) incurred as a result of the failure to table the Order in accordance with that provision.

102. Schedule amended

The Schedule to the Order referred to in section 100 is amended---

- (a) by repealing "19" wherever it appears;
- (b) by repealing "立法局" wherever it appears and substituting "立法會".

103. Savings

(1) Section 100 is subject to Article 12 of the Hong Kong Bill of Rights set out in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383).

(2) Section 101 shall not affect prosecutions, actions or legal proceedings commenced before the coming into operation of that section; those prosecutions, actions or proceedings may be maintained as if this Part had not been enacted.

PART XIV

Amendments to Legal Practitioners Ordinance to Provide for Disposal of Complaints by Tribunal Convenor of Solicitors Disciplinary Tribunal Panel and Transfer of Certain

Powers to Council of the Law Society of
Hong Kong and Chief Judge

Legal Practitioners Ordinance

104. Roll of solicitors

Section 5(3) of the Legal Practitioners Ordinance (Cap. 159) is amended by repealing "Chief Justice" and substituting "Chief Judge".

105. Practising certificates---solicitors

Section 6 is amended---

(a) in subsection (5)(a), (b) and (e), by repealing "Chief Justice" and substituting "Council";

(b) in subsections (9) and (10), by repealing "Chief Justice" and substituting "Chief Judge";

(c) in subsection (11)---

(i) by repealing "Chief Justice" and substituting "Chief Judge";

(ii) in paragraph (a), by repealing "or" at the end;

(iii) in paragraph (b)---

(A) by repealing "applicant" and substituting "appellant";

(B) by repealing the full stop and substituting "; or";

(iv) by adding---

"(c) remit the matter to the Society or Council for reconsideration with such directions as he thinks fit.";

(d) by adding---

"(12) Where the Chief Judge affirms a decision of the Society or Council under paragraph (a) of subsection (11) or directs the Society to issue a practising certificate under paragraph (b) of that subsection, the decision of the Chief Judge shall be final.".

106. Qualifications for practising as solicitor

Section 7(d) is amended by adding "that apply to him" after "73A".

107. Solicitors Disciplinary Tribunal Panel

Section 9 is amended---

(a) in subsection (4)---

(i) by repealing "one of the solicitors on the Panel" and substituting "a solicitor";

(ii) by repealing "of the other";

(b) by adding---

"(6) The Tribunal Convenor and a Deputy Tribunal Convenor who acts in the place of the Tribunal Convenor in circumstances mentioned in subsection (5) shall be remunerated by the Society."

108. Complaint about conduct of solicitor,
foreign lawyer, etc.

Section 9A is amended---

(a) by adding---

"(1A) Notwithstanding subsection (1), if the conduct involves an alleged breach of---

(a) a provision of this Ordinance;

(b) a practice direction issued by the Society; or

(c) a principle of professional conduct contained in The Hong Kong Solicitors' Guide to Professional Conduct,

prescribed in rules made by the Council, and the Council considers that that matter is suitable for disposal by the Tribunal Convenor under section 9AB, the Council may submit the matter to the Tribunal Convenor for such disposal subject to the conditions mentioned in subsection (1) of that section being satisfied.

(1B) In considering whether a matter is suitable for disposal by the Tribunal Convenor under section 9AB, the Council may take into account the following---

(a) whether the alleged breach is deliberate;

(b) the gravity of the alleged breach;

(c) any other factor it considers relevant.";

(b) in subsection (2), by repealing "Chief Justice" and substituting "Chief Judge".

109. Section added

The following is added---

"9AB. Power of Tribunal Convenor to
dispose of certain complaints

(1) The Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel shall dispose of a matter submitted under section 9A(1A) if the person in respect of whom

the submission is made---

(a) admits liability for the breach of a prescribed provision, practice direction or principle of professional conduct as alleged; and

(b) agrees to the matter being disposed of by the Tribunal Convenor under this section,

in the manner prescribed in rules made by the Council.

(2) The Tribunal Convenor shall dispose of a matter by making an order requiring the person concerned to pay, within the time specified in the order, the fixed penalty and the Council's fixed investigation costs prescribed in rules made by the Council for a breach of the relevant prescribed provision, practice direction or principle of professional conduct.

(3) The fixed penalty shall be paid into the general revenue.

(4) The Tribunal Convenor shall sign an order made under this section and file a copy of the signed order with the Secretary General of the Society.

(5) Payment of an amount ordered to be paid by the Tribunal Convenor may be enforced as if it were an order issued out of the Court on the production of a copy of the order signed by the Tribunal Convenor and the rules of the Court, so far as applicable, apply to the order.

(6) An order filed with the Secretary General of the Society shall be available for inspection by any person affected during such hours as the Council may decide."

110. Solicitors Disciplinary Tribunal

Section 9B(1) and (1A) is amended by adding ", unless it is a matter that is to be disposed of by the Tribunal Convenor under section 9AB," after "shall".

111. Additional power of Court to admit barristers

Section 27A(1) is amended by repealing "Chief Justice" where it first appears and substituting "Chief Judge".

112. Complaint about barrister's conduct

Section 35(2) is amended by repealing "Chief Justice" and substituting "Chief Judge".

113. Powers of Barristers Disciplinary Tribunal

Section 36(6)(b) is amended by repealing "Chief Justice" and substituting "Chief Judge".

114. Restoration of name of notary public

Section 43 is amended by repealing "Chief Justice" and substituting "Chief Judge".

115. Employment by solicitor or foreign lawyer of persons struck off or suspended

Section 53(4) is amended by repealing "Chief Justice" where it first and last appears and substituting "Chief Judge".

116. Power of the Council to make rules

Section 73(1) is amended by adding after paragraph (c)---

"(caa) providing for the practice and procedure to be followed in connection with the submission of a matter by the Council to the Tribunal Convenor under section 9A(1A);

(cab) providing for the practice and procedure to be followed in connection with the disposal of a matter by the Tribunal Convenor under section 9AB;".

Consequential Amendments

Admission and Registration Rules

117. Application for admission as a barrister

Rule 8(3)(b) of the Admission and Registration Rules (Cap. 159 sub. leg.) is amended by repealing "Chief Justice" where it twice appears and substituting "Chief Judge".

118. Exemption

Rule 13 is amended by repealing "Chief Justice" wherever it appears and substituting "Chief Judge".

Solicitors Disciplinary Tribunal Proceedings Rules

119. Transmission of documents

Rule 4 of the Solicitors Disciplinary Tribunal Proceedings Rules (Cap. 159 sub. leg.) is amended by repealing "Chief Justice" and substituting "Chief Judge".

Barristers (Qualification) Rules

120. Appeals

Rule 8(1) of the Barristers (Qualification) Rules (Cap. 159 sub. leg.) is amended by repealing "Chief Justice" and substituting "Chief Judge".

121. Reduction of pupillage

Rule 10 is amended by repealing "Chief Justice" and substituting "Chief Judge".

122. Reduction of or dispensation with

pupillage of a barrister admitted

under section 27A

Rule 12 is amended by repealing "Chief Justice" where it twice appears and substituting "Chief Judge".

Barristers Disciplinary Tribunal Proceedings Rules

123. Interpretation

Section 1 of the Barristers Disciplinary Tribunal Proceedings Rules (Cap. 159 sub. leg.) is amended in the definition of "applicant" by repealing "Chief Justice" and substituting "Chief Judge".

124. Appointment of applicant by the Chief Judge

Section 2 is amended by repealing "Chief Justice" and substituting "Chief Judge".

Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997

125. Part added

Section 2 of the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997) is amended in the new section 7I(3) by repealing "Chief Justice" and substituting "Chief Judge".

Legal Practitioners (Amendment) Ordinance 1998

126. Part substituted

Section 3 of the Legal Practitioners (Amendment) Ordinance 1998 (27 of 1998) is amended---

(a) in the new section 40A(1) and (2), by repealing "Chief Justice" and substituting "Chief Judge";

(b) in the new section 40C---

(i) in subsection (2), by repealing "Chief Justice" where it first appears and substituting "Chief Judge";

(ii) in subsection (3), by repealing "Chief Justice" and substituting "Chief Judge";

(c) in the new section 40E---

(i) in subsection (10), by repealing "Chief Justice" and substituting "Chief Judge";

(ii) in subsection (11)---

(A) by repealing "Chief Justice" and substituting "Chief Judge";

(B) in paragraph (a), by repealing "or";

(C) in paragraph (b)(iii), by repealing the full stop and substituting "; or";

(D) by adding---

"(c) remit the matter to the Society of Notaries for reconsideration with such directions as he thinks fit.";

(iii) by adding---

"(12) Where the Chief Judge affirms a decision of the Society of Notaries under paragraph (a) of subsection (11) or gives a direction to the Society of Notaries under paragraph (b) of that subsection, the decision of the Chief Judge shall be final.";

(d) in the new section 40H(2), by repealing "Chief Justice" and substituting "Chief Judge";

(e) in the new section 40K(6)(b), by repealing "Chief Justice" and substituting "Chief Judge".

PART XV

Miscellaneous Amendments

Public Finance Ordinance

127. Abandonment of claims, etc. and write-off of public moneys and stores

Section 38 of the Public Finance Ordinance (Cap. 2) is amended---

(a) in subsection (1), by repealing ", subject to, in any case involving fraud or negligence, any conditions, exceptions or limitations specified by the Finance Committee,";

(b) by adding---

"(1A) In any case involving fraud or negligence, the Financial Secretary may only exercise the powers under subsection (1) subject to any conditions, exceptions or limitations the Finance Committee may specify."

128. Special Suspense Accounts

The Second Schedule is amended by repealing "財政司法團暫記帳" and substituting "財政司司長法團暫記帳".

Financial Secretary Incorporated Suspense Account

129. Financial Secretary Incorporated Suspense Account

The Financial Secretary Incorporated Suspense Account (Cap. 2 sub. leg.) is amended---

(a) in the title, by repealing "財政司法團暫記帳" and substituting "財政司司長法團暫記帳";

(b) by repealing "財政司法團暫記帳" and substituting "財政司司長法團暫記帳".

Firearms and Ammunition Ordinance

130. Possession on behalf of the Crown etc.

Section 3(b)(viii) of the Firearms and Ammunition Ordinance (Cap. 238) is amended by repealing "Agriculture and Fisheries" and substituting "Agriculture, Fisheries and Conservation".

131. Amendment of enactments

The enactments specified in the Schedule are amended to the extent and in the manner specified in that Schedule in relation to each such enactment.

SCHEDULE [s. 131]

Amendment of Enactments

Item	Enactment	Amendment
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1.	Rules of the High Court	Repeal Order 93, rule 14. (Cap. 4 sub. leg.)
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2.	Post Office Regulations	In regulation 6(1)(d)(i), repeal "any Urban (Cap. 98 sub. leg.) Council election, any Regional Council election or".
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3.	Eastern Harbour Crossing	In section 21(3), repeal "Secretary for Lands
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Ordinance (Cap. 215) and Works" and substitute "Secretary for Planning and Lands".

4. Public Order Ordinance (Cap. 245) In section 52---

- (a) in paragraph (a), repeal "6(b) or (c)" and substitute "6(1) or (3)";
- (b) in paragraph (aa), repeal "6(a)" and substitute "6(2)".

5. Road Traffic Ordinance (Cap. 374) In section 45(1), repeal "使用或魯莽" and substitute "魯莽使用或".

6. Legislative Council (Powers and (a) In section 2---

Privileges) Ordinance (Cap. 382) (i) in subsection (1)---

(A) in the definition of "委員會", in paragraph (a), repeal "常務" and substitute "常設";

(B) in the definition of "議事錄", repeal "會議紀錄" and substitute "會議紀要";

(ii) in subsection (1A), repeal "委員小組" and substitute "事務委員會".

(b) In section 7(2), repeal "休會或押後會議" and substitute "休假或休會待續".

(c) In section 9, repeal "常務" where it twice appears and substitute "常設".

7. Administrative Instructions for (a) In section 1---

Regulating Admittance and (i) in the definition of "committee room",
Conduct of Persons (Cap. 382 add "or second" after "first";

sub. leg.) (ii) in the definition of "委員會", in paragraph (a), repeal "常務" and substitute "常設".

(b) In section 8, repeal "立法會法律顧問" and substitute "立法機關法律顧問".

8. Tate's Cairn Tunnel Ordinance In section 16(3), repeal "Secretary for Lands and

(Cap. 393) Works" and substitute "Secretary for Planning and Lands".

9. The Ombudsman Ordinance (a) In section 2(1), in the definition of "首長"---

(Cap. 397) (i) in paragraph (a), repeal "地位" and substitute "職位";

(ii) in paragraph (b), repeal everything after "首長," and substitute "而申訴所針對的行動，正是向該首長負責的人員所作出的";

(b) In section 3(4)(b), repeal "免任" and substitute "免職".

(c) In section 4, repeal "特定" and substitute "明確".

(d) In section 5(1)(c), repeal "免任" and substitute "免職".

(e) In section 12(6), repeal "聆訊" and substitute "聆聽".

(f) In section 16(1)(iii), repeal "發現" and substitute "調查所得".

(g) In section 18(a), repeal "向任何人公布" and substitute "作出報告、公布或發出通知".

(h) In Schedule 2, in paragraph 10, repeal "偵測" and substitute "偵查".

10. Electricity Ordinance (Cap. 406) (a) Repeal the subheading "Peak Tramway Rules" before section 63.

(b) Repeal section 63.

11. Land Drainage Ordinance In section 2, in the definition of "Secretary", (Cap. 446) repeal "Secretary for Planning and Lands" and substitute "Secretary for Works".

12. Personal Data (Privacy) Ordinance (a) In section 2(7), repeal "會同行政會議".

(Cap. 486) (b) In section 30(6), repeal "(4) 款" and substitute "(5) 款".

(c) In Schedule 5, in paragraph 4---

(i) repeal "使用者" and substitute "當事人";

(ii) repeal "查閱" and substitute "改正".

13. Estate Agents Ordinance (Cap. 511) In section 52---

(a) repeal "this section" and substitute "section 49";

(b) repeal "that section" and substitute "section 50".

14. Mutual Legal Assistance in Criminal In Schedule 1, in paragraph 2 of Article 26,

Matters (Switzerland) Order repeal "Federal Office for Police Matters" and (Cap. 525 sub. leg.) substitute "Federal Office of Justice".

15. Legislative Council Ordinance In section 59(1), add "事務" before "主任". (Cap. 542)

16. Land (Compulsory Sale for In section 3(1)---

Redevelopment) Ordinance (a) repeal "任何人" and substitute "一名或多於 (Cap. 545) 一名人士";

(b) repeal "他" and substitute "該名或該等 (視屬何情況而定) 人士".

Explanatory Memorandum

This Bill contains miscellaneous amendments to various Ordinances.

2. Part II amends the Employees Compensation Assistance Ordinance (Cap. 365), the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) and the Protection of Wages on Insolvency Ordinance (Cap. 380) to remove a reference to section 8(1B) of the Magistrates Ordinance (Cap. 227) which was repealed in 1992.

3. Part III amends the Criminal Procedure Ordinance (Cap. 221) to clarify the mechanism for enforcing compensation orders made under section 73 of that Ordinance.

4. Part IV amends the Hong Kong Court of Final Appeal Ordinance (Cap. 484) to empower the Appeal Committee to award costs when it refuses an application for leave to appeal to the Court of Final Appeal. That Part also amends the Costs in Criminal Cases Ordinance (Cap. 492) to empower the Court of Appeal to award costs in an appeal to the Court of Appeal by way of case stated under section 84 of the District Court Ordinance (Cap. 336).

5. Part V amends the Crimes Ordinance (Cap. 200)---

(a) to provide that the reference to "unlawful sexual intercourse" in Part XII of that Ordinance includes non-consensual marital intercourse;

(b) to provide for the meaning of "consent" in relation to sexual and related offences;

(c) to make it clear that marital rape is an offence;

(d) to add a reference to "marital intercourse" in 3 related sexual offences in sections 119 (procurement by threats), 120 (procurement by false pretences) and 121 (administering drugs to obtain or facilitate unlawful sexual act) of that Ordinance; and

(e) to provide that marital defences are not applicable to non-consensual sexual intercourse and non-consensual gross indecency.

6. Part VI amends the Fugitive Offenders Ordinance (Cap. 503) to ensure that the courts will adopt the same approach in deciding whether to grant bail to fugitive offenders.

7. Part VII amends the Conveyancing and Property Ordinance (Cap. 219) to empower the court to order repayment of a deposit in an action for its return or where the court refuses to grant specific performance of a contract. Exclusion of the court's jurisdiction in this respect by contract is not permitted.

8. Part VIII amends the Administrative Appeals Board Ordinance (Cap. 442)---

(a) to recast the wording of section 9 of that Ordinance so that the scope of appellants is determined by reference to the legislation providing for such appeal;

(b) to remove the time limit within which appeals are to be made as specified in the Schedule to that Ordinance so as to remove the inconsistency with the time limit specified in that section 9; and

(c) to update that Schedule.

9. Part IX amends the Hong Kong Examinations Authority Ordinance (Cap. 261) to provide for the change of name of The Hong Kong Examinations Authority to The Hong Kong Examinations and Assessment Authority and the widening of its powers to include planning and conducting assessments.

10. Part X amends the "non-immunity" clauses in 15 Ordinances to provide that the

relevant organizations are not servants or agents of the Government and do not enjoy any immunity or privilege of the Government. Those Ordinances are---

- (a) the Consumer Council Ordinance (Cap. 216);
- (b) the Hong Kong Examinations and Assessment Authority Ordinance (Cap. 261);
- (c) the Employees Compensation Assistance Ordinance (Cap. 365);
- (d) the Kowloon-Canton Railway Corporation Ordinance (Cap. 372);
- (e) the Protection of Wages on Insolvency Ordinance (Cap. 380);
- (f) the Ocean Park Corporation Ordinance (Cap. 388);
- (g) the Hong Kong Council on Smoking and Health Ordinance (Cap. 389);
- (h) the Occupational Safety and Health Council Ordinance (Cap. 398);
- (i) the Employees' Compensation Insurance Levies Ordinance (Cap. 411);
- (j) the Employees Retraining Ordinance (Cap. 423);
- (k) the Estate Agents Ordinance (Cap. 511);
- (l) The Prince Philip Dental Hospital Ordinance (Cap. 1081);
- (m) the Vocational Training Council Ordinance (Cap. 1130);
- (n) the Hong Kong Sports Development Board Ordinance (Cap. 1149); and
- (o) the Hong Kong Council for Academic Accreditation Ordinance (Cap. 1150).

11. Part XI amends 7 Ordinances relating to tertiary institutions to, among other things, provide for a change in the job titles of some of the officers of the institutions, streamline the procedures for appointment of certain categories of Council members of the institutions by transferring the appointment authority from the Chief Executive to the relevant Council, and provide for cessation of Council membership for specified categories of Council members under specified circumstances. Those Ordinances are---

- (a) The Hong Kong Institute of Education Ordinance (Cap. 444);
- (b) The Hong Kong Polytechnic University Ordinance (Cap. 1075);
- (c) The Chinese University of Hong Kong Ordinance (Cap. 1109);
- (d) the Hong Kong Baptist University Ordinance (Cap. 1126);
- (e) the City University of Hong Kong Ordinance (Cap. 1132);
- (f) The Hong Kong University of Science and Technology Ordinance (Cap. 1141); and
- (g) The Open University of Hong Kong Ordinance (Cap. 1145).

12. Part XII repeals several pieces of legislation relating to the Kai Tak Airport that are no longer necessary after the closure of the Airport. Consequential and related amendments are also made to other legislation.

13. Part XIII makes provisions---

(a) to deem the Form of Warrant (To Compel Attendance) Order (G.N. 5975 of 1996) to have been laid on the table of the Legislative Council in accordance with the requirements of section 34(1) of the Interpretation and General Clauses Ordinance (Cap. 1);

(b) to indemnify persons from liability in respect of the failure to lay that Order on the table of the Legislative Council; and

(c) to make it clear that those provisions do not create retrospective offences or increase penalties with retrospective effect and to provide that existing legal proceedings are not affected by those provisions.

14. Part XIV amends the Legal Practitioners Ordinance (Cap. 159) and its subsidiary legislation---

(a) to provide for the disposal of complaints by the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel;

(b) to transfer the powers of the Chief Justice to prescribe grounds for refusal to issue a practising certificate and conditions that may be attached to a practising certificate to the Council of The Law Society of Hong Kong ("the Law Society");

(c) to transfer certain powers of the Chief Justice to the Chief Judge so that the day to day administration of regulating admissions and de-registration is relinquished to the Chief Judge;

(d) to empower the Chief Justice (Chief Judge after the transfer of powers) to remit a matter to the Law Society or the Society of Notaries for reconsideration in an appeal against the decision of the Society concerned regarding the issue of, or attachment of conditions to, practising certificates; and

(e) to clarify that, for the purposes of section 7 of that Ordinance, only the solicitors to whom the Solicitors (Professional Indemnity) Rules (Cap. 159 sub. leg.) apply need to comply with those Rules.

15. Part XV makes miscellaneous amendments of a minor nature to various Ordinances. Those amendments are mainly to achieve internal consistency in terminology and consistency between the Chinese and the English texts, to reflect changes in titles and transfer in responsibilities between bureaux, to repeal obsolete provisions and references, and to rectify errors in cross-referencing and other textual errors.