

LEGISLATIVE COUNCIL BRIEF

ADAPTATION OF LAWS (MISCELLANEOUS PROVISIONS) BILL 2002

INTRODUCTION

At the meeting of the Executive Council on 23 April 2002, the Council ADVISED and the Chief Executive ORDERED that the Adaptation of Laws (Miscellaneous Provisions) Bill 2002 (at **Annex A**) should be introduced into the Legislative Council.

BACKGROUND AND ARGUMENT

2. The Administration began the adaptation of laws exercise in 1998. With the concerted effort of various Bureaux and departments and also the Department of Justice, references that require adaptation were being identified and adapted and most Ordinances have already been adapted. The remaining Ordinances to be adapted involve policy issues, and further deliberations on the policy implications regarding adaptation are required. The Administration intends to introduce Bills to adapt such Ordinances starting from the 2002-03 legislative session.

3. For a few Ordinances that have been adapted, the Administration has identified some minor non-contentious internal inconsistency in terminology and between the Chinese and English texts. A number of new provisions enacted on or after 1 July 1997 also contain such minor inconsistency. The Bill makes technical textual amendments to the Ordinances concerned to deal with these minor inconsistencies.

THE BILL

4. The Bill amends a number of provisions in the following Ordinances –

Dangerous Drugs Ordinance (Cap. 134)
 Control of Chemicals Ordinance (Cap. 145) and its subsidiary
 legislation
 General Holidays Ordinance (Cap. 149)
 Aerial Ropeways (Operation and Maintenance) Regulations (Cap.
 211, sub. leg.)
 Weapons Ordinance (Cap. 217)
 Police Force Ordinance (Cap. 232)
 Hong Kong Auxiliary Police Force Ordinance (Cap. 233)
 Customs and Excise Service Ordinance (Cap. 342)
 Kowloon-Canton Railway Corporation Ordinance (Cap. 372)
 Administrative Appeals Board Ordinance (Cap. 442)
 Nuclear Material (Liability for Carriage) Ordinance (Cap. 479)
 Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525)
 Copyright Ordinance (Cap. 528)
 Land (Compulsory Sale for Redevelopment) Ordinance (Cap.545)

5. The Chinese title of the Commissioner of Customs and Excise has been changed from “香港海關總監” to “香港海關關長”. Therefore, references to “總監” are amended to become “關長”.

6. References to “首席大法官”, “皇家天文台”, “皇家香港警隊”, “財政司法團”, “Royal Hong Kong Auxiliary Police Force Ordinance” and “Crown Rent and Premium (Apportionment) Ordinance” are amended to become “終審法院首席法官”, “香港天文台”, “香港警務處”, “財政司司長法團”, “Hong Kong Auxiliary Police Force Ordinance” and “Government Rent and Premium (Apportionment) Ordinance” respectively.

7. In the Weapons Ordinance, there is a reference to “官方” which was left out inadvertently when we amended the corresponding English reference to “Crown” to “Government” in a previous adaptation of laws Ordinance. Therefore, “官方” is amended to become “政府”.

8. In the Nuclear Material (Liability for Carriage) Ordinance, while references to “國家或地區” in the Chinese text were changed to “國家、地區或地方” in a previous adaptation of laws Ordinance, two corresponding amendments to the English text were ineffective due to inadvertent errors. Therefore, the two references to “country or territory” in the English text are amended to become “country, territory or place”.

COMMENCEMENT

9. For references which existed immediately before 1 July 1997, the Bill provides that, subject to Article 12 of the Hong Kong Bill of Rights, the adaptations when passed into law shall take effect retrospectively, as from 1 July 1997. For provisions which were enacted on or after 1 July 1997, the Bill provides that those adaptations shall take effect on the day when the provisions were enacted.

LEGISLATIVE TIMETABLE

10. The legislative timetable will be -

Publication in the Gazette	3 May 2002
First Reading and commencement of Second Reading debate	15 May 2002
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

BASIC LAW IMPLICATIONS

11. The Department of Justice advises that the Bill does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

12. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT

13. The amendments in the Bill do not affect the current binding effect of the existing provisions of various Ordinances covered by the Bill.

FINANCIAL AND STAFFING IMPLICATIONS

14. There are no financial or staffing implications arising from the Bill.

SUSTAINABILITY IMPLICATIONS

15. The Bill does not propose any policy change and has no sustainability implications.

PUBLIC CONSULTATION

16. Since the amendments are essentially straightforward editorial adaptations, consultation with the public is not considered necessary.

PUBLICITY

17. A press release will be issued. A spokesperson will be available to answer press enquiries which might arise from the proposed amendments.

Department of Justice
May 2002

Subject Officers :	Mr Stephen Kai-yi Wong	Deputy Solicitor General
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ADAPTATION OF LAWS (MISCELLANEOUS PROVISIONS) BILL 2002

ANNEXES

Annex A - Adaptation Of Laws (Miscellaneous Provisions) Bill 2002

Annex B - Extract of the provisions which are being amended

Annex A

ADAPTATION OF LAWS (MISCELLANEOUS PROVISIONS) BILL 2002

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A BILL

To

Adapt certain provisions of various Ordinances to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Adaptation of Laws (Miscellaneous Provisions) Ordinance 2002.

2. Commencement

- (1) (a) This Ordinance, except as provided in subsections (2) to (6), shall be deemed to have come into operation on 1 July 1997.
(b) Paragraph (a) 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).
- (2) Sections 1 and 2 of Schedule 6 shall be deemed to have come into operation on 19 November 1999.
- (3) Sections 1, 2 and 3 of Schedule 8 shall be deemed to have come into operation on 19 November 1999.
- (4) Section 1 of Schedule 9 shall be deemed to have come into operation on 3 April 1998.

- (5) Section 1 of Schedule 12 shall be deemed to have come into operation on 20 February 1998.
- (6) Section 1 of Schedule 14 shall be deemed to have come into operation on 7 June 1999.

3. Amendment of Ordinances

The Ordinances specified in the Schedules are amended in the manner indicated in those Schedules.

SCHEDULE 1

[s. 3]

DANGEROUS DRUGS ORDINANCE

1. Section 52(10) of the Dangerous Drugs Ordinance (Cap. 134) is amended, in the definition of "香港海關關長"
" –
 - (a) by repealing "副總監" and substituting "副關長";
 - (b) by repealing "理總監" and substituting "理關長".

2. Section 53A(10) is amended, in the definition of "香港海關
關長" –
 - (a) by repealing "副總監" and substituting "副關長";
 - (b) by repealing "理總監" and substituting "理關長".

CONTROL OF CHEMICALS ORDINANCE AND ITS SUBSIDIARY LEGISLATION

Control of Chemicals Ordinance

1. Section 2(1) of the Control of Chemicals Ordinance (Cap. 145) is amended –
 - (a) in the definition of "Commissioner", by repealing " (總監) " and substituting " (關長) ";
 - (b) in the definition of "許可證", by repealing "總監" and substituting "關長";
 - (c) in the definition of "牌照", by repealing "總監" and substituting "關長".
2. Section 7 is amended by repealing "總監" where it twice appears and substituting "關長".
3. Section 8(1), (3), (4) and (5) is amended by repealing "總監" wherever it appears and substituting "關長".
4. Section 9(1), (2), (3), (4) and (5) is amended by repealing "總監" wherever it appears and substituting "關長".
5. Section 12(3) is amended by repealing "總監" and substituting "關長".
6. Section 18 is amended by repealing "總監" where it twice appears and substituting "關長".

Control of Chemicals Regulations

7. Regulation 2 of the Control of Chemicals Regulations (Cap. 145 sub. leg.) is amended by repealing "總監" wherever it appears and substituting "關長".
8. Regulation 3(1), (4) and (5) is amended by repealing "總監" and substituting "關長".
9. Regulation 4(1) and (2) is amended by repealing "總監" wherever it appears and substituting "關長".

GENERAL HOLIDAYS ORDINANCE

1. Section 4(2) of the General Holidays Ordinance (Cap. 149) is amended by repealing "首席大法官" wherever it appears and substituting "終審法院首席法官".

SCHEDULE 4

[s. 3]

AERIAL ROPEWAYS (OPERATION AND MAINTENANCE) REGULATIONS

1. Regulation 15(1) of the Aerial Ropeways (Operation and Maintenance) Regulations (Cap. 211, sub. leg.) is amended by repealing "皇家" and substituting "香港".

SCHEDULE 5

[s. 3]

WEAPONS ORDINANCE

1. Section 13(2) of the Weapons Ordinance (Cap. 217) is amended by repealing "官方" and substituting "政府".

SCHEDULE 6

[s. 3]

POLICE FORCE ORDINANCE

1. Section 3 of the Police Force Ordinance (Cap. 232) is amended, in the definition of "auxiliary force", by repealing "Royal".
2. Section 39C(a) is amended by repealing "Royal".
3. Section 67(7) is amended by repealing "總監" and substituting "關長".

SCHEDULE 7

[s. 3]

HONG KONG AUXILIARY POLICE FORCE ORDINANCE

1. Section 2 of the Hong Kong Auxiliary Police Force Ordinance (Cap. 233) is amended, in the definition of "警隊", by repealing "皇家香港警隊" and substituting "香港警務處".

SCHEDULE 8

[s. 3]

CUSTOMS AND EXCISE SERVICE ORDINANCE

1. Section 19(1), (3), (4) and (6) of the Customs and Excise Service Ordinance (Cap. 342) is amended by repealing "總監" wherever it appears and substituting "關長".
2. Section 19B(e) is amended by repealing "總監" and substituting "關長".
3. Section 19D(4) is amended by repealing "總監" wherever it appears and substituting "關長".

SCHEDULE 9

[s. 3]

KOWLOON-CANTON RAILWAY CORPORATION ORDINANCE

1. Section 8(5) of the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) is amended by adding "司長" before "法".

SCHEDULE 10

[s. 3]

ADMINISTRATIVE APPEALS BOARD ORDINANCE

1. The Schedule to the Administrative Appeals Board Ordinance (Cap. 442) is amended –
 - (a) in item 7, by repealing "總監" and substituting "關長";
 - (b) in item 9, by repealing "總監" and substituting "關長".

SCHEDULE 11

[s. 3]

NUCLEAR MATERIAL (LIABILITY FOR CARRIAGE) ORDINANCE

1. Section 10(5) of the Nuclear Material (Liability for Carriage) Ordinance (Cap. 479) is amended by repealing "country or territory" where it twice appears and substituting "country, territory or place".

SCHEDULE 12

[s. 3]

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ORDINANCE

1. Section 12(12)(b) of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) is amended by repealing "總監" and substituting "關長".

SCHEDULE 13

[s. 3]

COPYRIGHT ORDINANCE

1. Section 198(1) of the Copyright Ordinance (Cap. 528) is amended, in the definition of "獲授權人員", by repealing "總監" and substituting "關長".

SCHEDULE 14

[s. 3]

LAND (COMPULSORY SALE FOR REDEVELOPMENT) ORDINANCE

1. Section 2(1) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) is amended, in the definition of "lot", in paragraph (a)(ii), by repealing "Crown" and substituting "Government".

Explanatory Memorandum

The purpose of this Bill is to adapt certain provisions of various Ordinances to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China (clause 3, Schedules 1 to 14).

2. The Bill provides that, subject to Article 12 of the Hong Kong Bill of Rights, the proposed adaptations (except those referred to in clause 2(2) to (6)) shall, when passed into law, take effect retrospectively as from the date of the establishment of the Hong Kong Special Administrative Region (clause 2).

Chapter:	134	Title:	DANGEROUS DRUGS ORDINANCE	Gazette Number:	L.N. 362 of 1997
Section:	52	Heading:	Powers of authorized officers	Version Date:	01/07/1997

(1) For the purposes of this Ordinance, any police officer and any member of the Customs and Excise Service may-

- (a) stop, board and search any ship, aircraft, vehicle or train which has arrived in Hong Kong (not being a ship of war or a military aircraft), and remain thereon as long as it remains in Hong Kong;
- (b) search any person arriving in Hong Kong or about to depart from Hong Kong;
- (c) search any thing imported into or to be exported from Hong Kong;
- (d) stop, board and search any ship, aircraft, vehicle or train if he has reason to suspect that there is therein an article liable to seizure;
- (e) without a warrant issued under subsection (1E) where it would not be reasonably practicable to obtain such a warrant, enter and search any place or premises if he has reason to suspect that there is therein an article liable to seizure; or (Amended 62 of 1994 s. 8)
- (f) stop and search any person, and search the property of any person, if-
 - (i) he has reason to suspect that such person has in his actual custody an article liable to seizure; or
 - (ii) such person is found in any ship, aircraft, vehicle, train, place or premises in which an article liable to seizure is found.

(1A) For the purposes of enabling a person to be searched under subsection (1)(f)(i), a police officer of or above the rank of inspector or a member of the Customs and Excise Service of or above the rank of inspector may request a registered medical practitioner or nurse registered or enrolled or deemed to be registered or enrolled under the Nurses Registration Ordinance (Cap 164), to examine the body cavities of that person. (Added 40 of 1982 s. 3)

(1B) A medical practitioner or nurse requested to examine the body cavities of a person under subsection (1A) may search the rectum, vagina, ears and any other body cavity of that person. (Added 40 of 1982 s. 3)

(1C) A medical practitioner or nurse carrying out an examination of a person at the request, under subsection (1A), of a police officer or member of the Customs and Excise Service who appears to be lawfully engaged in the performance of his duty shall not be bound to inquire whether or not the police officer or member is acting lawfully or within the scope of his duty. (Added 40 of 1982 s. 3)

(1D) A police officer or member of the Customs and Excise Service may detain a person in respect of whom a request is to be or has been made to a medical practitioner or nurse under subsection (1A) for such time as may reasonably be necessary to permit a medical practitioner or nurse to complete an examination of the body cavities of that person under this section. (Added 40 of 1982 s. 3)

(1E) Where it appears to any magistrate upon the oath of any person that there is reasonable cause to suspect that in any place there is an article liable to seizure under this Ordinance, or with respect to which an offence has been committed or is about to be committed against the provisions of this Ordinance, the magistrate may, by his warrant directed to any police officer or to any member of the Customs and Excise Service, empower such officer or member by day or by night to enter the place

n a m e d i n t h e w a r r a n t a n d
there to search for and seize, remove and detain any such article. (Added 62 of 1994 s. 8)

(2) For the purpose of enabling a ship or aircraft to be searched under subsection (1)-

- (a) the Commissioner of Customs and Excise or the Commissioner of Police may by order in writing under his hand detain a ship for not more than 12 hours or an aircraft for not more than 6 hours; and (Amended 40 of 1985 s. 9)
- (b) the Chief Secretary for Administration may, by order in writing under his hand, detain a ship or aircraft for further periods of not more than 12 hours in the case of a ship or not more than 6 hours in the case of an aircraft. (Amended L.N. 362 of 1997)

Any order made under this subsection shall state the times from which and for which the order is effective.

(3) Any public officer may seize, remove and detain any thing if he has reason to suspect that such thing is an article liable to seizure.

(4) Any public officer authorized in writing by the Director may uproot, seize, remove and destroy any plant of the genus cannabis or the opium poppy.

(5) For the purposes of this Ordinance, any public officer authorized in writing by the Director may-

- (a) enter, inspect and search any place or premises occupied by-
 - (i) a person authorized by virtue of section 22(1)(a), (b) or (c) or (5A) or by virtue of section 24(1); (Amended 2 of 1992 s. 11)
 - (ii) a person whose authorization as aforesaid has been withdrawn under section 33 and the withdrawal suspended;
 - (iii) a person by whom any such person as aforesaid is employed; or
 - (iv) a person to whom a licence has been issued under this Ordinance;
- (b) require the production of, and inspect, any register, record, book, prescription or other document kept or made pursuant to the requirements, or for the purposes, of this Ordinance or any other document relating to dealings in a dangerous drug by or on behalf of any such person as aforesaid; and
- (c) inspect any stocks of a dangerous drug in the possession of any such person as aforesaid.

(6) For the purposes of this Ordinance, any public officer authorized in writing by the Director may-

- (a) enter, inspect and search a hospital or institution specified in the Second Schedule or any place or premises occupied for the purposes of any such hospital or institution;
- (b) require the production of, and inspect, any register, record, book, prescription or other document kept or made in any such hospital or institution pursuant to the requirements, or for the purposes, of this Ordinance or any other document relating to dealings in a dangerous drug for the purposes of such hospital or institution; and
- (c) inspect any stocks of a dangerous drug in any such hospital or institution or in any such place or premises.

(7) An authorization given by the Director under this section may be given to a police officer, member of the Customs and Excise Service or public officer by name or may be given to any police officer, member of the Customs and Excise Service or other public officer for the time being holding such rank or public office as the Director may specify, and may extend to all the powers specified in subsection (2), (4) or (5), as the case may be, or to such of those powers as the Director may specify.

(8) Any public officer may-

- (a) break open any outer or inner door of or in any place or premises which he is empowered by this section to enter and search;
- (b) forcibly board any ship, aircraft, vehicle or train which he is empowered by this section to board and search;
- (c) remove by force any person or thing who or which obstructs any entry, search, inspection, seizure, removal or detention which he is empowered by this section to make;
- (d) detain every person found in any place or premises which he is empowered by this section

- to search until the same has been searched; and
- (e) detain every person on board any ship, aircraft, vehicle or train which he is empowered by this section to search, and prevent any person from approaching or boarding such ship, aircraft, vehicle or train, until it has been searched.
- (9) (a) (i) An examination of the body cavities of a person under this section shall, unless that person otherwise consents, be carried out by a medical practitioner or nurse of the same sex as that person.
- (ii) Where a female has consented, under sub-paragraph (i), to an examination of her body cavities by a medical practitioner or nurse of the opposite sex, such examination shall be in the presence of another female.
- (b) Subject to paragraph (a), no female shall be searched under this section except by a female.
- (c) No person shall be searched under this section in a public place if he objects to being so searched. (Replaced 40 of 1982 s. 3)

(9A) The provisions of this Ordinance (including section 56) which could, but for this subsection, apply to a thing seized under this section shall not apply to the thing if it has been so seized on the ground that it is suspected to be specified property referred to in paragraph (d) of the definition of "article liable to seizure". (Added 89 of 1995 s. 35)

(9B) For the avoidance of doubt, it is hereby declared that where a thing referred to in subsection (9A) is released under section 24C(4) of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405), that subsection shall not operate to prevent the application of the provisions of this Ordinance (including this section and section 56) to that thing at any time on or after such release. (Added 89 of 1995 s. 35)

(10) In this section-

"article liable to seizure" (可予扣押的物件) means-

- (a) any dangerous drug referred to in section 55;
- (b) any money or thing liable to forfeiture under this Ordinance or forfeiture or confiscation under a corresponding law; (Amended 89 of 1995 s. 35)
- (c) any thing which is or contains evidence of-
- (i) an offence under this Ordinance or a corresponding law;
- (ii) a drug trafficking offence within the meaning of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405); (Replaced 89 of 1995 s. 35)
- (d) any specified property within the meaning of Part IVA of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405); (Added 89 of 1995 s. 35)

"Commissioner of Customs and Excise" (香港海關關長) includes a Deputy Commissioner of Customs and Excise and an Assistant Commissioner of Customs and Excise; (Added 40 of 1985 s. 9. Amended L.N. 362 of 1997)

"Commissioner of Police" (警務處處長) includes a deputy or assistant commissioner of police.

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Chapter:	134	Title:	DANGEROUS DRUGS ORDINANCE	Gazette Number:	L.N. 362 of 1997
Section:	53A	Heading:	Surrender of travel document	Version Date:	01/07/1997

(1) A magistrate may, on the application of the Commissioner of Police or the Commissioner of Customs and Excise, by written notice require a person who is the subject of an investigation in respect of a specified offence alleged or suspected to have been committed by him to surrender to the Commissioner of Police or Commissioner of Customs and Excise any travel document in his possession. (Amended 40 of 1985 s. 9)

(2) The matter of an application under subsection (1) shall be substantiated by the oath of the applicant.

(3) A notice under subsection (1) shall be served personally on the person to whom it is addressed.

(4) A person on whom a notice under subsection (1) is served shall comply with such notice forthwith.

(5) If a person on whom a notice under subsection (1) has been served fails to comply with the notice forthwith, he may thereupon be arrested and taken before a magistrate.

(6) Where a person is taken before a magistrate under subsection (5), the magistrate shall, unless such person thereupon complies with the notice under subsection (1) or satisfies the magistrate that he does not possess a travel document, by warrant commit him to prison there to be safely kept-

(a) until the expiry of the period of 28 days from the date of his committal to prison as aforesaid; or

(b) until such person complies with the notice under subsection (1) and a magistrate, by order in that behalf, orders and directs the Commissioner of Correctional Services to discharge such person from prison (which order shall be sufficient warrant for the Commissioner of Correctional Services so to do), (Amended L.N. 30 of 1982)

whichever occurs first.

(7) Upon the surrender of a travel document under this section, the Commissioner of Police or the Commissioner of Customs and Excise, as the case may be, shall issue a receipt identifying the travel document. (Amended 40 of 1985 s. 9)

(8) A travel document which is surrendered to the Commissioner of Police or the Commissioner of Customs and Excise under this section may be detained for 3 months from the date on which it was surrendered and may be detained for not more than 2 further periods of 3 months if a magistrate, on application by the Commissioner of Police or the Commissioner of Customs and Excise, is satisfied that the investigation could not reasonably have been completed before the date of such application and authorizes such further detention. (Amended 40 of 1985 s. 9)

(9) All proceedings before a magistrate under this section shall be conducted in chambers.

(10) In this section-

"Commissioner of Customs and Excise" (香港海關關長) includes a Deputy Commissioner of Customs and Excise and an Assistant Commissioner of Customs and Excise; (Added 40 of 1985 s. 9. Amended L.N. 362 of 1997)

"Commissioner of Police" (警務處處長) includes a deputy or assistant commissioner of police;

"specified offence" (指明罪行) means any offence punishable under any section of this Ordinance, on conviction on indictment, with imprisonment for a term of 15 years or any greater punishment, and aiding, abetting, counselling or procuring the commission by another of any such offence;

"travel document" (旅行證件) means a passport or other document issued for the purpose of travel which establishes the identity or nationality of the holder.

(Added 60 of 1977 s. 2)

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Chapter:	145	Title:	CONTROL OF CHEMICALS ORDINANCE	Gazette Number:
Section:	2	Heading:	Interpretation	Version Date: 30/06/1997

(1) In this Ordinance, unless the context otherwise requires-
"acetylating substance" (乙酰化物) means any substance specified in Schedule 1; (Amended 64 of 1994 s. 4)

"Commissioner" (總監) means the Commissioner of Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise; (Added L.N. 294 of 1982)

"container" (容器) means-

- (a) any receptacle or thing whatever containing or enclosing any quantity of any controlled chemical; (Amended 64 of 1994 s. 4)
- (b) any receptacle or thing whatever containing or enclosing any container or containers referred to in paragraph (a);
- (c) any receptacle or thing whatever containing or enclosing for keeping or storing or for transporting by sea, air or land, in whatever number or size, any containers referred to in paragraph (a) or (b);

"controlled chemical" (受管制化學品) means any substance specified in Schedule 1, 2 or 3; (Added 64 of 1994 s. 4)

"dangerous drug" (危險藥物) means a dangerous drug as defined in section 2 of the Dangerous Drugs Ordinance (Cap 134); (Added 64 of 1994 s. 4)

"licence" (牌照) means a licence issued by the Commissioner under this Ordinance; (Amended L.N. 294 of 1982)

"manufacture" (製造), in relation to a substance specified in Schedule 1, 2 or 3, includes carrying on any process in the manufacture of that substance; (Replaced 64 of 1994 s. 4)

"member of the Customs and Excise Service" (香港海關人員) means any person holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap 342); (Amended 46 of 1977 s. 18; 64 of 1994 s. 4; 68 of 1995 s. 2)

"permit" (許可證) means a permit issued by the Commissioner under this Ordinance.

(Amended L.N. 294 of 1982)

(2) For the purposes of this Ordinance a person-

- (a) exports a controlled chemical if, not being a controlled chemical in transit, he takes it or causes it to be taken out of Hong Kong;
- (b) imports a controlled chemical if, not being a controlled chemical in transit, he brings it or causes it to be brought into Hong Kong. (Amended 64 of 1994 s. 4)

(3) For the purposes of this Ordinance a controlled chemical is in transit if, but only if- (Amended 64 of 1994 s. 4)

- (a) it has been brought into Hong Kong for the sole purpose of being taken out of Hong Kong; and
- (b) at all times whilst it is in Hong Kong it remains-
 - (i) in or on the vessel or aircraft in or on which it arrived in Hong Kong; and (Amended 41 of 1996 s. 2)
 - (ii) in the container in which it arrived in Hong Kong.

(4) For the purposes of this Ordinance a controlled chemical is in transshipment if it- (Amended 64 of 1994 s. 4)

- (a) is brought into Hong Kong for the sole purpose of being taken out of Hong Kong; and
- (b) is removed from the vessel, aircraft or vehicle in or on which it arrived in Hong Kong pending its being taken out of Hong Kong in another vessel, aircraft or vehicle.

Chapter: 145 Title: CONTROL OF CHEMICALS ORDINANCE Gazette Number:
Section: 7 Heading: **Substance specified in Schedule 1 or 2 in transhipment** Version Date: 30/06/1997

(1) Save under and in accordance with a removal permit issued by the Commissioner, no person shall-

- (a) remove any substance specified in Schedule 1 or 2 which is in transhipment from the vessel, aircraft or vehicle in or on which it was imported into Hong Kong; or
- (b) in any way move any substance specified in Schedule 1 or 2 within Hong Kong after its removal from the vessel, aircraft or vehicle in or on which it was imported into Hong Kong.

(2) Except on the instructions in writing of the Commissioner, no person shall wilfully open or break any container containing a substance specified in Schedule 1 or 2 which is in transit or in transhipment.

(Amended L.N. 294 of 1982; 64 of 1994 s. 9)

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Chapter: 145 Title: CONTROL OF CHEMICALS ORDINANCE Gazette Number:
Section: 8 Heading: **Conditions and form of licence or permit** Version Date: 30/06/1997

(1) A licence or permit shall-

- (a) be subject to such conditions; and
- (b) be in such form,

as the Commissioner may specify.

(2) A licence or permit shall be valid for the period stated in the licence or permit.

(3) The Commissioner may at any time alter the particulars of a licence or permit or cancel or vary any conditions or specify new conditions.

(4) Where the Commissioner-

- (a) alters any of the particulars of a licence or permit; or
- (b) cancels or varies the conditions of a licence or permit or imposes new conditions,

he shall notify the holder of the licence or permit who shall forthwith surrender his licence or permit to the Commissioner.

(5) Where the holder of a licence or permit surrenders his licence or permit to the Commissioner under subsection (4), the Commissioner shall issue him with a new licence or permit.

(Amended L.N. 294 of 1982)

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Chapter:	145	Title:	CONTROL OF CHEMICALS ORDINANCE	Gazette Number:	
Section:	9	Heading:	Cancellation or suspension of licence or permit	Version Date:	30/06/1997

- (1) The Commissioner may at any time cancel or suspend a licence or permit-
 - (a) at the request of the holder of the licence or permit;
 - (b) if any condition of the licence or permit is contravened;
 - (c) if the holder of the licence or permit or a person employed by him commits an offence under this Ordinance;
 - (d) if the Commissioner is satisfied that the licence was issued by him as a result of a false misrepresentation of any fact or other unlawful act of the applicant; or
 - (e) if the Commissioner is of opinion that it is for any reason in the public interest to cancel or suspend the licence or permit and the holder of the licence or permit, having been required to do so in writing by the Commissioner, has failed within 1 month to show good cause why the licence or permit should not be cancelled or suspended.
- (2) The Commissioner may cancel a licence or permit on the death of the holder of the licence or permit.
- (3) Where the Commissioner cancels or suspends a licence or permit under subsection (1), he shall forthwith notify the holder of the licence or permit and shall state the reason therefor.
- (4) Where the Commissioner has notified the holder of a licence or permit under subsection (3) of the cancellation or suspension of his licence or permit, the holder of the licence or permit shall forthwith surrender the licence or permit to the Commissioner.
- (5) Where a licence or permit which has been suspended is surrendered, the Commissioner shall on the termination of the period of suspension reissue the licence or permit to the holder of the licence or permit.

(Amended L.N. 294 of 1982)

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Chapter:	145	Title:	CONTROL OF CHEMICALS ORDINANCE	Gazette Number:	
Section:	12	Heading:	Powers of search and seizure	Version Date:	30/06/1997

- (1) For the purposes of this Ordinance any police officer or any member of the Customs and Excise Service may- (Amended 46 of 1977 s. 18)
 - (a) stop, board and search any vessel (other than a ship of war), aircraft (other than a military aircraft) or vehicle which has arrived in Hong Kong and remain thereon as long as it remains in Hong Kong;
 - (b) stop, board and search any vessel (other than a ship of war), aircraft (other than a military aircraft) or vehicle if he has reason to suspect that there is therein an article liable to seizure;
 - (c) subject to subsection (6), enter and search any place or premises if he has reason to suspect that there is therein an article liable to seizure;
 - (d) stop and search any person, and search the property of any person if-
 - (i) he has reason to suspect that such person has in his actual custody an article liable to seizure;

(ii) such person is found in any vessel, aircraft, vehicle, place or premises in which an article liable to seizure is found.

(2) Any public officer may seize, remove and detain anything if he has reason to suspect that such thing is an article liable to seizure.

(3) For the purposes of this Ordinance and subject to subsection (6), any public officer authorized in writing by the Commissioner may- (Amended L.N. 294 of 1982)

- (a) enter, inspect and search any place or premises occupied by a person to whom a licence or permit has been issued under this Ordinance;
- (b) require the production of any register, record, book or other document relating to dealings in a controlled chemical; (Amended 64 of 1994 s. 11)
- (c) inspect any such register, record, book or other document;
- (d) inspect any stocks of a controlled chemical in the possession of such person. (Amended 64 of 1994 s. 11)

(4) Any public officer may-

- (a) break open any outer or inner door of or in any place or premises which he is empowered by this section to enter and search;
- (b) forcibly board any vessel, aircraft or vehicle which he is empowered by this section to board and search;
- (c) remove by force any person or thing who or which obstructs any entry, search, inspection, seizure, removal or detention which he is empowered by this section to make;
- (d) detain any person found in any place or premises which he is empowered by this section to search, and prevent any person from approaching or boarding such vessel, aircraft or vehicle until it has been searched.

(5) No person shall be searched under this section except by a person of the same sex and no person shall be searched under this section in a public place if he objects to being so searched. (Amended 67 of 1995 s. 91(2))

(6) No domestic premises shall be entered and searched under this section unless a member of the Customs and Excise Service of or above the rank of Inspector or a police officer of or above the rank of Inspector is present. (Amended 46 of 1977 s. 18; 68 of 1995 s. 2)

(7) In this section, "article liable to seizure" (可予檢取的物品) means-

- (a) controlled chemical referred to in section 13; (Amended 64 of 1994 s. 11)
- (b) any money or thing which is liable to forfeiture under this Ordinance; and
- (c) anything which is or contains evidence of an offence under this Ordinance.

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Chapter:	145	Title:	CONTROL OF CHEMICALS ORDINANCE	Gazette Number:	
Section:	18	Heading:	Appeals	Version Date:	30/06/1997

(1) Any person aggrieved by a decision of the Commissioner relating to-

- (a) the issue of a licence or permit;
- (b) the refusal to issue a licence or permit;
- (c) the cancellation or suspension of a licence or permit;
- (d) the cancellation or variation of any condition or the specification of a new condition in any licence or permit,

may, within 28 days from the date when he was informed of the decision, appeal to the Administrative Appeals Board.

(2) A decision that is appealed against under subsection (1)(a), (c) or (d) shall be suspended in its operation as from the day on which the appeal is made until such appeal is disposed of, withdrawn or abandoned unless such suspension would, in the opinion of the Commissioner, be contrary to the public interest and the notice of the decision contains a statement to that effect.

(Replaced 6 of 1994 s. 43)

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Chapter:	145A	Title:	CONTROL OF CHEMICALS REGULATIONS	Gazette Number:	
Regulation:	2	Heading:	Application for licence or permit	Version Date:	30/06/1997

(1) An application for a licence or permit shall-

- (a) be in writing, in such form; and
- (b) contain such particulars,

as the Commissioner may require. (L.N. 294 of 1982)

(2) Within 14 days of the receipt of an application for a licence or permit the Commissioner may-

(L.N. 294 of 1982)

- (a) issue the licence or permit; or
- (b) give notice in writing to the applicant of his refusal to issue the licence or permit.

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Chapter:	145A	Title:	CONTROL OF CHEMICALS REGULATIONS	Gazette Number:	
Regulation:	3	Heading:	Record of substance specified in Schedule 1 or 2 of the Ordinance	Version Date:	30/06/1997

(1) The holder of a licence or permit, other than one issued under section 3A of the Ordinance, shall for each such licence or permit keep a register in a form approved by the Commissioner in which he shall enter in chronological order in respect of the controlled chemical named in the licence or permit-

(L.N. 294 of 1982)

- (a) each receipt or, as the case may be, manufacture of a quantity of that controlled chemical, including-
 - (i) the date of receipt or manufacture;
 - (ii) the quantity received or manufactured;
 - (iii) the purpose for which it was received or manufactured; and
 - (iv) in the case of a receipt, the full name and address of the person from whom it was received;
- (b) in respect of each such receipt or manufacture, each dealing in, use or other disposal of, that quantity or any part thereof, including-
 - (i) the date and manner of the dealing, use or disposal;
 - (ii) the quantity dealt in, used or disposed of;

- (iii) the full name and address of the person, if any, to whom the controlled chemical was transferred; and
- (c) in respect of each such receipt or manufacture, the amount of the controlled chemical remaining in his possession therefrom at any time. (64 of 1994 s. 20)
- (2) The holder of a licence or permit, other than one issued under section 3A of the Ordinance, shall at all times keep in the register kept under paragraph (1) a record of the total amount in his possession of the controlled chemical to which the licence or permit relates. (L.N. 98 of 1977; 64 of 1994 s. 20)
- (3) Every entry made under paragraph (1)(a) or (b) shall be made immediately on the receipt or manufacture of or dealing in, use or other disposal of the controlled chemical in respect of which that entry is required. (64 of 1994 s. 20)
- (4) A copy of every entry in the record kept under paragraph (1) shall, unless the holder of the licence or permit is exempted under paragraph (5) from compliance with the requirements of this paragraph, be sent to the Commissioner within 24 hours of its being made. (L.N. 98 of 1977; L.N. 294 of 1982)
- (5) The Commissioner may at any time and from time to time in writing exempt the holder of any licence or permit from compliance with the requirements of paragraph (4) on such terms and conditions as he may think fit. (L.N. 98 of 1977; L.N. 294 of 1982)
- (6) The record kept under paragraph (1) shall be kept for 2 years beginning on the date it was made. (64 of 1994 s. 20)

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Chapter:	145A	Title:	CONTROL OF CHEMICALS REGULATIONS	Gazette Number:	
Regulation:	4	Heading:	Premises and containers in which substances specified in Schedule 1 or 2 of the Ordinance is stored or kept	Version Date:	30/06/1997

- (1) No person shall keep or store any substance specified in Schedule 1 or 2 of the Ordinance not in transit except-
- (a) in a place approved in writing by the Commissioner; and
- (b) in accordance with such conditions as the Commissioner may specify.
- (2) No person shall keep or store any substance specified in Schedule 1 or 2 of the Ordinance except in a container approved in writing by the Commissioner.
- (3) The container in which any substance specified in Schedule 1 or 2 of the Ordinance is kept or stored- (L.N. 259 of 1997)
- (a) shall be clearly marked on the outside thereof with the English and Chinese names of the substance as specified in the appropriate Schedule; and
- (b) shall not contain any substance other than the substance so marked thereon.
- (L.N. 294 of 1982; 64 of 1994 s. 21)

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Chapter:	149	Title:	GENERAL HOLIDAYS ORDINANCE	Gazette Number:	35 of 1998 s. 2
Section:	4	Heading:	Operation of Government department or court on general holidays	Version Date:	18/09/1998

(1) Anything in this Ordinance or any other law to the contrary notwithstanding, the head of any Government department may, if in his opinion the interests of the public service or the convenience of the public so require, open and operate any of the offices and works thereof on a general holiday and require any of the persons serving in his department to perform any of their duties and functions on a general holiday.

(2) Anything in this Ordinance or any other law to the contrary notwithstanding, the Chief Justice may direct that any court or any of the offices of any court shall be open on a general holiday for the transaction of such business as the Chief Justice may think fit and may require any of the persons serving in any such court or office to perform any of their duties and functions on a general holiday.

(Replaced 19 of 1967 s. 6)

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Chapter:	211A	Title:	AERIAL ROPEWAYS (OPERATION AND MAINTENANCE) REGULATIONS	Gazette Number:	L.N. 362 of 1997
Regulation:	15	Heading:	Operation in inclement weather	Version Date:	01/07/1997

(1) Upon the hoisting at the Hong Kong Observatory of the No. 3 visual storm warning, the controller on duty shall- (L.N. 362 of 1997)

- (a) stop the operation of the aerial ropeway after all passengers being carried thereon have been carried to the nearest station at which transport is available; and
- (b) ensure that-
 - (i) all rope-retaining devices on sheave trains are placed in the "rope safe" position;
 - (ii) all cars are parked in stations under shelter.

(2) The controller on duty when an aerial ropeway is in operation may stop the operation of the ropeway if the weather conditions are such as to prejudice the safe operation of the ropeway.

(3) Where the wind conditions are such as to cause the cars on a ropeway to oscillate violently, the controller on duty shall reduce the speed of the ropeway.

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Chapter:	217	Title:	WEAPONS ORDINANCE	Gazette Number:	13 of 1999
Section:	13	Heading:	Seizure and forfeiture	Version Date:	01/07/1997

Remarks:

Amendments retroactively made - see 13 of 1999 s. 3

(1) A police officer may at any time seize, remove and detain any prohibited weapon or martial arts weapon if he has reason to suspect that an offence under this Ordinance is being or has been committed in respect thereof or that the weapon has been abandoned.

(2) Upon the conviction of any person for an offence under section 4 or 10, the prohibited weapon or martial arts weapon in respect of which the offence was committed shall, without any order in that behalf, be forfeited to the Government and may be disposed of (whether by destruction or otherwise) by the Commissioner. (Amended 13 of 1999 s. 3)

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Chapter:	232	Title:	POLICE FORCE ORDINANCE	Gazette Number:	L.N. 100 of 2001
Section:	3	Heading:	Interpretation	Version Date:	01/07/2001

In this Ordinance, unless the context otherwise requires-
"appropriate consent" (適當的同意) means-

- (a) in relation to a person who has attained the age of 18 years, the consent of that person;
- (b) in relation to a person who has not attained the age of 18 years, the consent both of that person and of his parent or guardian; (Added 68 of 2000 s. 5)

"auxiliary force" (輔警隊) means the Hong Kong Auxiliary Police Force established under the Royal Hong Kong Auxiliary Police Force Ordinance (Cap 233); (Added 58 of 1999 s. 3)

"auxiliary officer" (輔警人員) means a member of the auxiliary force; (Added 58 of 1999 s. 3)

"Commissioner" (處長) means the Commissioner of Police of Hong Kong or a deputy commissioner; (Replaced 13 of 1953 s. 2. Amended 76 of 1999 s. 3)

"DNA" means deoxyribonucleic acid; (Added 68 of 2000 s. 5)

"DNA information" (DNA 資料) means genetic information derived from the forensic DNA analysis of an intimate sample or a non-intimate sample; (Added 68 of 2000 s. 5)

"gazetted police officer" (憲委級警務人員) includes officers of all ranks from and including the Commissioner down to and including superintendent; (Amended 37 of 1974 s. 2)

"government regulations" (政府規例) means the administrative rules known as the Government Regulations and any other administrative rules or instruments regulating the public service; (Added 76 of 1999 s. 3)

"Independent Commission Against Corruption" (總督特派廉政專員公署) means the Independent Commission Against Corruption established under section 3 of the Independent Commission Against Corruption Ordinance (Cap 204); (Added 68 of 2000 s. 5)

"inspector" (督察) means an inspector of police of whatever grade or rank;

"intimate sample" (體內樣本) means-

- (a) a sample of blood, semen or any other tissue fluid, urine or hair other than head hair;
- (b) a dental impression;
- (c) a swab taken from a private part of a person's body or from a person's body orifice other than the mouth; (Added 68 of 2000 s. 5)

"non-commissioned officer" (非委任級人員) means a police officer below the rank of inspector down to and including sergeant and also means detectives of corresponding ranks; (Amended 42 of 1977 s. 2)

"non-intimate sample" (非體內樣本) means-

- (a) a sample of head hair;
- (b) a sample taken from a nail or from under a nail;
- (c) a swab taken from any part, other than a private part, of a person's body or from the mouth but not any other body orifice;
- (d) saliva;
- (e) an impression of any part of a person's body other than-
 - (i) an impression of a private part;
 - (ii) an impression of the face; or

- (iii) the identifying particulars described in section 59(6); (Added 68 of 2000 s. 5)
- "police constable" or "constable" (警員) means a police officer under the rank of sergeant and also means detective police constable or detective constable; (Amended 42 of 1977 s. 2)
- "police officer" (警務人員) includes any member of the police force; (Amended 37 of 1974 s. 2; 58 of 1999 s. 3)
- "police regulations" (警察規例) means regulations made in exercise of the powers conferred by section 45 and any regulations continued or continuing in force upon the enactment of this Ordinance;
- "Police Welfare Fund" (警察福利基金) means the Police Welfare Fund continued by section 39B; (Replaced 58 of 1999 s. 3)
- "private part" (私處) in relation to a person's body, means the genital or anal area and includes the breasts in the case of a woman; (Added 68 of 2000 s. 5)
- "Public Service (Administration) Order" (《公務人員(管理)命令》) means-
- (a) the Public Service (Administration) Order 1997 (Executive Order No. 1 of 1997);
 - (b) the Public Service (Disciplinary) Regulation made under section 21 of that Order (and together with that Order published as S.S. No. 5 to Gazette No. 2/1997); and
 - (c) any other regulation made or any direction given under that Order,
- as amended from time to time; (Added 76 of 1999 s. 3)
- "registered dentist" (註冊牙醫) has the same meaning as it has in the Dentist Registration Ordinance (Cap 156); (Added 68 of 2000 s. 5)
- "serious arrestable offence" (嚴重的可逮捕罪行) means-
- (a) an offence for which a person may under or by virtue of any law be sentenced to imprisonment for a term not less than 7 years; or
 - (b) any other offence specified in Schedule 2. (Added 68 of 2000 s. 5)
- (Amended 29 of 1950 s. 2; 42 of 1977 s. 2; 58 of 1999 s. 3)

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Chapter:	232	Title:	POLICE FORCE ORDINANCE	Gazette Number:	L.N. 289 of 1999
Section:	39C	Heading:	What the Police Welfare Fund consists of	Version Date:	19/11/1999

The Police Welfare Fund consists of the following-

- (a) all fees paid for the services of police officers detailed by the Commissioner to perform special services under section 66 or for services performed by auxiliary officers employed under section 18 of the Royal Hong Kong Auxiliary Police Force Ordinance (Cap 233);
- (b) any donations made to that Fund;
- (c) if a Police Staff Purchase Scheme is established under section 39F, proceeds derived from transactions under the Scheme;
- (d) proceeds from the sale of souvenirs and the disposal of other property held for the purposes of that Fund;
- (e) all money received from the letting of holiday premises, or the hire of recreational facilities, held for the purposes of that Fund;
- (f) all fees collected from social, educational and recreational activities organized by or on behalf of the Commissioner for the purposes of that Fund;
- (g) money derived from the investment of that Fund;
- (h) money accruing as interest on loans made from that Fund;
- (i) gifts of money required under the Acceptance of Advantages (Governor's Permission) Notice 1992 (Cap 201 p. c) to be disposed of by being paid into that Fund;

- (j) any money voted to that Fund by the Legislative Council;
- (k) money held in that Fund immediately before the commencement of Schedule 2 to the Disciplined Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999) and money which was, immediately before that commencement, recoverable for that Fund and which is subsequently paid to, or recovered for, that Fund after that commencement;
- (l) money paid or payable to the credit of that Fund from any other lawful source.

(Part IV replaced 58 of 1999 s. 3)

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Chapter:	232	Title:	POLICE FORCE ORDINANCE	Gazette Number:	
Section:	67	Heading:	Power of Commissioner to require information from banks and deposit-taking companies	Version Date:	30/06/1997

- (1) Where it appears to the Commissioner-
 - (a) that there is reasonable cause to suspect that an indictable offence has been committed; and
 - (b) that it is expedient for the purpose of investigating such offence or apprehending the offender to exercise the power conferred by this subsection,
 the Commissioner may, by notice in writing, require any bank or deposit-taking company specified in the notice to notify him in such manner and within such reasonable period as may be so specified whether-
 - (i) any person specified in the notice has or, so far as the bank's or company's records disclose, has had an account in Hong Kong with such bank or deposit-taking company; or
 - (ii) in the case of a bank, such bank-
 - (A) provides or, so far as the bank's records disclose, did provide a safety deposit box in Hong Kong for such person or to which such person is, according to the bank's records, permitted to have access; or
 - (B) holds or, so far as the bank's records disclose, has held in its custody in Hong Kong any property for such person or to which such person is, according to the bank's records, permitted to have access.
- (2) Before the period specified in a notice under subsection (1) expires, the Commissioner may by notice in writing extend such period by substituting therefor such longer period as he may deem appropriate; and a reference in subsection (4) to the requirements of a notice shall, in respect of a requirement relating to such period, be construed as a reference to a requirement relating to such period as so extended.
- (3) A notice under this section may be served by registered post, and any such notice shall be deemed to have been properly served on any bank or deposit-taking company if a letter containing the notice is sent by registered post addressed-
 - (a) in the case of a bank or deposit-taking company incorporated in Hong Kong, to its registered office in Hong Kong;
 - (b) in any other case, to any person resident in Hong Kong who is authorized to accept service of process in Hong Kong on behalf of the bank or deposit-taking company, at the address required to be delivered to the Registrar of Companies under Part XI of the Companies Ordinance (Cap 32):

Provided that where it is not practicable to serve, in the manner provided in paragraph (b), a bank or deposit-taking company which is not incorporated in Hong Kong, the notice may be served on the

manager or other person in charge of any place of business established in Hong Kong by the bank or deposit-taking company.

(4) If any bank or deposit-taking company on which a notice under this section is served, without reasonable excuse-

- (a) fails to comply with any of the requirements of such notice; or
- (b) in purported compliance with any such requirement, furnishes any information which is false in a material particular,

such bank or deposit-taking company shall be guilty of an offence and shall be liable-

- (i) on conviction upon indictment, to a fine of \$100000;
- (ii) on summary conviction, to a fine of \$50000.

(5) Where a bank or deposit-taking company on which a notice under this section is served, at any time-

- (a) fails to comply with any of the requirements of such notice; or
- (b) in purported compliance with any such requirement, furnishes any information which is false in a material particular,

with the consent or connivance of any individual, the individual shall, whether or not an offence under subsection (4) is committed, be guilty of an offence under this subsection if at that time-

- (A) he is a director, manager, secretary or similar officer of the bank or deposit-taking company; or
- (B) he is purporting to act as such officer or as agent of the bank or deposit-taking company; or
- (C) the bank or deposit-taking company is managed by its members, of whom he is one,

and shall be liable-

- (i) on conviction upon indictment, to a fine of \$50000 and to imprisonment for 1 year;
- (ii) on summary conviction, to a fine of \$10000 and to imprisonment for 6 months.

(6) Where a notice under this section is served on a bank or deposit-taking company, any individual who wilfully causes or procures the bank or deposit-taking company-

- (a) to fail to comply with any of the requirements of such notice; or
- (b) in purported compliance with any such requirement, to furnish any information which is false in a material particular,

shall, whether or not an offence under subsection (4) is committed, be guilty of an offence under this subsection and shall be liable-

- (i) on conviction upon indictment to a fine of \$50000 and to imprisonment for 1 year;
- (ii) on summary conviction to a fine of \$10000 and to imprisonment for 6 months.

(7) Section 7 shall not apply in relation to the power conferred by subsection (1) or (2), but such power may be exercised by any police officer not below the rank of assistant commissioner or any member of the Customs and Excise Service not below the rank of assistant commissioner authorized in writing by the Commissioner in that behalf; and, for the purposes of this section, where such power is exercised by any such police officer or member of the Customs and Excise Service it shall be presumed unless the contrary is proved that such police officer or member is so authorized to exercise such power.

(8) In this section-

"bank" (銀行) means a bank within the meaning of section 2 of the Banking Ordinance (Cap 155);

"deposit-taking company" (接受存款公司) means a deposit-taking company or restricted licence bank within the meaning of section 2 of the Banking Ordinance (Cap 155). (Replaced 49 of 1995 s. 53)

(Added 54 of 1983 s. 2)

Chapter:	233	Title:	HONG KONG AUXILIARY POLICE FORCE ORDINANCE	Gazette Number:	L.N. 362 of 1997; 76 of 1999
Section:	2	Heading:	Interpretation	Version Date:	01/07/1997

Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

- In this Ordinance, unless the context otherwise requires-
- "active service" (現役服務) means service pursuant to an order of the Commissioner made under section 16(1) or (2); (Amended 16 of 1967 s. 2)
- "Boards of Discipline" (紀律委員會) means a board convened under section 13;
- "Commandant" (總監) means the Commandant or the Deputy Commandant of the Force; (Amended 38 of 1980 s. 2)
- "Commissioner" (處長) means the Commissioner of Police or a deputy commissioner; (Amended 38 of 1980 s. 2)
- "constable" (警員) means a member holding any rank below the rank of sergeant; (Amended 38 of 1980 s. 2)
- "duty" (職責) includes active service, training and any voluntary duty performed under section 18, and a member shall be deemed to be on duty while proceedings to or returning from duty; (Replaced 16 of 1967 s. 2. Amended 38 of 1980 s. 2)
- "Force" (輔警隊) means the Hong Kong Auxiliary Police Force established under section 3; (Amended 29 of 1969 s. 2; L.N. 362 of 1997)
- "gazetted officer" (憲委級人員) means a member holding any rank between the rank of Commandant and the rank of superintendent (Auxiliary), both inclusive; (Replaced 38 of 1980 s. 2)
- "inspector" (督察) means a member holding the rank of inspector of police (Auxiliary) of whatever grade or rank; (Amended 38 of 1980 s. 2)
- "member" (隊員) means a member of the Force;
- "non-commissioned officer" (非委任級人員) means a member holding any rank below the rank of inspector and above the rank of constable;
- "Police Force" (警隊) means the Hong Kong Police Force; (Amended 29 of 1969 s. 2; L.N. 362 of 1997)
- "regular gazetted police officer" (正規憲委級警務人員) means an officer of the Police Force holding any rank between the rank of Commissioner and the rank of superintendent both inclusive. (Amended 38 of 1980 s. 2)

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Chapter:	342	Title:	CUSTOMS AND EXCISE SERVICE ORDINANCE	Gazette Number:	L.N. 289 of 1999
Section:	19	Heading:	Commissioner to be corporation sole for purposes of this Part	Version Date:	19/11/1999

(1) The Commissioner is constituted as a corporation sole for the purposes of this Part with the corporate name of "Commissioner of Customs and Excise Incorporated".

- (2) The corporation-
- (a) has perpetual succession; and
 - (b) for the purposes of this Part, may acquire, hold and dispose of real and personal property; and
 - (c) may take legal proceedings and be proceeded against in its corporate name; and
 - (d) is required to have a corporate seal; and
 - (e) for the purposes of this Part, has the capacity to do and be subjected to all other things that bodies corporate may, by law, do and be subjected to.

(3) A document requiring authentication by the corporation is sufficiently authenticated if it is signed by the Commissioner or by any member of the Service authorized to do so by the Commissioner.

(4) The affixing of the corporate seal to a document executed by the corporation is not valid unless authenticated by the Commissioner or a member of the Service designated for the purpose by the Commissioner.

(5) The corporation is not a trustee for the beneficiaries, but, subject to subsection (6), nothing in this Part limits a right conferred by law to bring legal proceedings against the corporation for a contravention of this Part or a failure to perform a duty imposed by this Part.

(6) Neither the Commissioner nor any delegate of the corporation is personally liable in any legal proceedings arising out of an act done or omitted to be done in relation to the Fund if the act was done or omitted to be done in good faith for the purpose of giving effect to this Part.

(Part IV replaced 58 of 1999 s. 6)

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Chapter:	342	Title:	CUSTOMS AND EXCISE SERVICE ORDINANCE	Gazette Number:	L.N. 289 of 1999
Section:	19B	Heading:	What the Fund consists of	Version Date:	19/11/1999

The Fund consists of the following-

- (a) any donations made to the Fund;
- (b) if a Customs and Excise Staff Purchase Scheme is established under section 19E, proceeds derived from transactions under the Scheme;
- (c) proceeds from the sale of souvenirs and the disposal of other property held for the purposes of the Fund;
- (d) all money received from the letting of holiday premises, or the hire of recreational facilities, held for the purposes of the Fund;
- (e) all fees collected from social, educational and recreational activities organized by or on behalf of the Commissioner for the purposes of the Fund;
- (f) money derived from the investment of the Fund;
- (g) money accruing as interest on loans made from the Fund;
- (h) gifts of money required under the Acceptance of Advantages (Governor's Permission) Notice 1992 (Cap 201 p. c) to be disposed of by being paid into the Fund;
- (i) any money voted to the Fund by the Legislative Council;
- (j) money held in the Fund immediately before the commencement of Schedule 5 to the Disciplined Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999) and money which was, immediately before that commencement, recoverable for the Fund and which is subsequently paid to, or recovered for, the Fund after that commencement;
- (k) money paid or payable to the credit of the Fund from any other lawful source.

(Part IV replaced 58 of 1999 s. 6)

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Chapter:	342	Title:	CUSTOMS AND EXCISE SERVICE ORDINANCE	Gazette Number:	L.N. 289 of 1999
Section:	19D	Heading:	What the Fund may be used for	Version Date:	19/11/1999

- (1) The Fund may be used for any of the following purposes-
 - (a) providing and maintaining amenities for the use and enjoyment of the beneficiaries;
 - (b) acquiring real and personal property for the purpose specified in paragraph (a);
 - (c) making payments to the corporation's employees in respect of their employment;
 - (d) making payments for the services of the corporation's agents;
 - (e) compensating members of the Service for extra services provided by them;
 - (f) making loans to beneficiaries;
 - (g) granting financial assistance to dependants of deceased members and deceased former members of the Service in order to meet the funeral expenses of those deceased members and deceased former members;
 - (h) making grants, allowances and gifts to beneficiaries for purposes other than the purpose mentioned in paragraph (g);
 - (i) making or acquiring souvenirs for sale to beneficiaries and others;
 - (j) if a Customs and Excise Staff Purchase Scheme is established under section 19E, undertaking transactions for the purpose of giving effect to the Scheme;
 - (k) making donations to charitable or community organizations;
 - (l) paying interest that is payable on loans made to the corporation or the Fund.
- (2) The corporation-
 - (a) may dispose of property derived from the application of the Fund that is, in its opinion, no longer required for the purposes of the Fund; and
 - (b) may pay from the Fund the expenses incurred in disposing of the property.
- (3) Loans to beneficiaries may, at the discretion of the corporation, be granted free of interest or subject to the payment of interest.
- (4) Whenever the Commissioner considers it appropriate to do so, the Commissioner may permit persons who are not beneficiaries to enjoy the use of amenities derived from the application of the Fund. Permission may be granted subject to such conditions as the Commissioner considers appropriate.

(Part IV replaced 58 of 1999 s. 6)

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Chapter:	372	Title:	KOWLOON- CANTON RAILWAY CORPORATION ORDINANCE	Gazette Number:	13 of 1998 s. 6
Section:	8	Heading:	Capital of Corporation	Version Date:	03/04/1998

PART III

FINANCIAL

(1) The authorized capital of the Corporation shall be an amount specified by the Financial Secretary under subsection (2) and shall be divided into shares of \$100000 each.

(2) The Financial Secretary shall, on the day this section comes into operation, specify the amount of authorized capital of the Corporation based on the book value of all assets vested in the Corporation, rounded to the nearest \$100000, and shall publish a notice in the Gazette specifying such amount.

(3) The Financial Secretary may, after consulting the Corporation, increase the authorized capital of the Corporation by order published in the Gazette.

(4) Shares in the authorized capital of the Corporation shall be allotted to the Government at par as required in writing by the Financial Secretary.

(5) All shares allotted to the Government under this section shall be registered in the books of the Corporation in the name of The Financial Secretary Incorporated and held by him in trust on behalf of the Government.

(6) The Corporation shall not issue shares otherwise than under this section.

(Replaced 13 of 1998 s. 6)

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Chapter:	442	Title:	ADMINISTRATIVE APPEALS BOARD ORDINANCE	Gazette Number:	L.N. 21 of 2002
Schedule:		Heading:	SCHEDULE	Version Date:	01/04/2002

Remarks:

1. Item 45 of this schedule has commenced operation since 19 June 2000 only in so far as it relates to a decision of the Commissioner for Labour to refuse to register a person under section 6 or to register a person under that section subject to conditions. - see L.N. 131 of 2000.
2. paragraphs (b) and (c) of item 45 of this schedule has commenced operation since 1 April 2002 - see L.N. 21 of 2002

[sections 3, 4 & 22]

Item	Ordinance	Decision
1.	Apprenticeship Ordinance (Cap 47)	A decision of the Director of Apprenticeship or any public officer in the performance or exercise of any function, duty or power under the Ordinance.
2.	Boilers and Pressure Vessels Ordinance (Cap 56)	The revocation or suspension of an appointment as a boiler inspector, air receiver inspector or pressurized fuel container inspector under section 5A.
3.	Employment Ordinance (Cap 57)	A decision of the Commissioner for Labour under section 53(1) to refuse to issue or renew or to revoke a licence to operate an employment agency.
4.	Factories and Industrial Undertakings Ordinance (Cap 59)	(a) An exemption by the Commissioner for Labour under section 7(4) of an industrial undertaking from any regulation. (b) An order by the Commissioner for Labour under section 7(4), for an industrial undertaking to adopt special precautions in addition to any precautions required by any regulation. (c) Under section 9A- (i) the issue by the Commissioner for Labour of a prohibition notice in respect of a notifiable workplace; (ii) a refusal by the Commissioner for Labour to cancel a prohibition notice; (iii) the giving by the Commissioner for Labour of any direction upon the cancellation of a prohibition notice. (d) (Repealed 39 of 1997 s. 49)
5.	Quarries (Safety) Regulations (Cap 59 sub. leg.)	(a) A refusal by the Commissioner for Labour to approve any person as a supervisor or deputy supervisor under regulation 4(1) or 6(1). (b) A withdrawal by the Commissioner for Labour of his approval of a supervisor or deputy supervisor under regulation 10(1).
6.	Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations (Cap 59 sub. leg.)	(a) A refusal by the Commissioner for Labour to register a person as a safety officer under regulation 7. (b) The cancellation by the Commissioner for Labour of a person's registration as a safety officer under regulation 9. (c) The suspension by the Commissioner for Labour of a person's registration as a safety officer under regulation 10.
7.	Weights and Measures Ordinance (Cap 68)	A decision of the Commissioner, as defined in section 2, or of an authorized officer which is taken in the exercise or performance of any function under the Ordinance.
8.	Miscellaneous Licences Ordinance (Cap 114)	The decision under section 5 of any officer authorized to issue a licence under the Ordinance as to the grant of a licence, the renewal of a licence or the revocation of a licence.
9.	Acetylating Substances (Control) Ordinance (Cap 145)	A decision of the Commissioner, as defined in section 2(1), under the Ordinance, relating to- (a) the issue of a licence or permit;

- (b) the refusal to issue a licence or permit;
 - (c) the cancellation or suspension of a licence or permit;
 - (d) the cancellation or variation of any condition or the specification of a new condition in a licence or permit.
10. Gambling Ordinance (Cap 148) The decision under section 22 of the Commissioner for Television and Entertainment Licensing as to the grant of a licence, the renewal of a licence, the imposition of conditions of a licence or the cancellation of a licence.
11. Chinese Temples Ordinance (Cap 153) (a) The refusal by the Chinese Temples Committee under section 4 to grant an exemption from section 4(1).
(b) The withdrawal by the Chinese Temples Committee under section 4 of an exemption granted under section 4(1).
12. Weapons Ordinance (Cap 217) A decision of the Commissioner of Police under section 9(1) to order the delivery up to him or seizure of any martial arts weapon.
13. Travel Agents Ordinance (Cap 218) A decision of the Registrar of Travel Agents-
(a) to refuse to grant a licence under section 12(1);
(b) to impose conditions on a licence under section 11(1) or 18;
(c) to refuse consent to a change of ownership or control under section 18(c);
(d) to suspend or revoke a licence under section 19.
14. Firearms and Ammunition Ordinance (Cap 238) (a) A decision of the Commissioner of Police refusing to grant a licence under section 30 or to renew a licence under section 32.
(b) A decision of the Commissioner of Police, under section 33, cancelling a licence or varying or revoking any condition attached thereto or adding any further condition or deleting any premises from a dealer's licence at which business may be carried on.
(c) The imposition of a condition of licence which is considered to be unreasonable.
(d) A decision of the Commissioner referred to in section 34(1AA). (Added 14 of 2000 s. 33)
(e) The imposition of a term or condition under section 4(3), 12(4), 12A(3), 27A(1), 29 or 46C(3), which is considered to be unreasonable. (Added 14 of 2000 s. 33)
15. Massage Establishments Ordinance (Cap 266) A decision of the licensing authority under section 6, 7, 8 or 9.
16. Grant Schools Provident Fund Rules (Cap 279 sub. leg.) A question of interpretation or application of the Rules.
17. Subsidized Schools Provident Fund A decision of the Board under the Rules.

- Rules (Cap 279 sub. leg.)
18. Mining Ordinance (Cap 285) The cancellation of an Authorized Buyer's Licence under section 41.
 19. Mining (General) Regulations (Cap 285 sub. leg.) A decision of the Commissioner of Mines under regulation 30(4A)(a) specifying the rate per tonne at which royalty shall be payable in respect of minerals and the period for which it shall be payable.
 20. Dangerous Goods Ordinance (Cap 295) A decision under section 9 of an officer authorized under the Ordinance to issue a licence-
 - (a) to refuse to grant a licence;
 - (b) to refuse to renew a licence; or
 - (c) to revoke a licence.
 21. Dangerous Goods (General) Regulations (Cap 295 sub. leg.) Prohibiting or imposing conditions on the continued use of a storage tank under regulation 127.
 22. Business Registration Ordinance (Cap 310)
 - (a) The service of a notice under section 3(4) by the Commissioner of Inland Revenue that a person is to be deemed to be a person carrying on business.
 - (b) The service of a notice under section 3(4AA) by the Commissioner of Inland Revenue that a person is to be deemed to be a person carrying on business at a branch of a business.
 - (c) The service of a notice under section 6(4D) by the Commissioner of Inland Revenue requesting a person to make an application for registration under a different name. (Replaced 3 of 1999 s. 19)
 23. Motor Vehicles (First Registration Tax) Ordinance (Cap 330) A decision of the Commissioner for Transport under the Ordinance.
 24. Animals (Control of Experiments) Ordinance (Cap 340) A refusal to issue a licence, endorsement or permit under section 7, 8, 9, 10 or 14.
 25. Chinese Permanent Cemeteries Rules (Cap 1112 sub. leg.) A decision of the Board of Management of the Chinese Permanent Cemeteries not to withdraw a notice in rule 12(2) regarding reversion of a subscriber lot to the Board.
Note: The Board of Management of the Chinese Permanent Cemeteries is specified for the purpose of section 22(5) of this Ordinance.
 26. Sewage Services Ordinance (Cap 463) A decision of the Drainage Authority under the Ordinance. (Added 105 of 1994 s. 15)
 27. Timber Stores Ordinance (Cap 464) A decision of the Director relating to-
 - (a) an application for a licence under section 4;
 - (b) an application for transfer of a licence under section 5;
 - (c) the revocation, suspension, refusal to renew or transfer; amendment or variation of conditions

- of a licence under section 8. (Added 11 of 1995 s. 23)
28. Marine Parks Ordinance (Cap 476) A decision of the Country and Marine Parks Authority under section 11 or 22 of the Ordinance. (Added 37 of 1995 s. 36)
29. Personal Data (Privacy) Ordinance (Cap 486) A decision of the Privacy Commissioner for Personal Data-
- (a) to impose conditions on his consent to the carrying out of a matching procedure under section 32(1)(b)(i);
 - (b) to refuse to consent to the carrying out of a matching procedure under section 32(1)(b)(ii);
 - (c) to refuse under section 39(3) to carry out or continue an investigation initiated by a complaint;
 - (d) not to delete under section 46(5) a matter from a report under the Ordinance;
 - (e) not to serve an enforcement notice under section 47;
 - (f) to serve an enforcement notice under section 50. (Added 81 of 1995 s. 73)
30. Dutiable Commodities Ordinance (Cap 109) A decision of the Commissioner of Customs and Excise under section 7, 26, 26A or 29. (Added 46 of 1996 s. 43)
31. Dogs and Cats Ordinance (Cap 167)
- (a) A decision by a police officer or an authorized officer under section 6(1)(c)(i) or (ii) to destroy a dog.
 - (b) A decision by an authorized officer under section 9 in specifying the place or period of detention of a dog or cat or any other thing under this Ordinance.
 - (c) A decision by an authorized officer under section 10 to vary the period of detention of a dog or cat or any other thing under this Ordinance.
 - (d) A decision by an authorized officer under section 11(1) to refuse an application for the removal from detention under this Ordinance of a dog or cat or any other thing.
 - (e) A decision by the Director under section 11(2) to order the forfeiture of a dog or cat or any other thing.
 - (f) A decision by the Director under section 17(2) to impose any condition in granting an exemption under section 17. (Added 97 of 1997 s. 11)
33. Child Care Services Ordinance (Cap 243) A decision of the Director of Social Welfare-
- (a) under section 7(2), refusing an application for registration;
 - (b) under section 9, cancelling a registration;
 - (c) under section 11B(3), refusing an application for exemption from registration;
 - (d) under section 11D, revoking an exemption from registration;
 - (e) under section 15B(2), determining a person to be

unsuited to act as a childminder;

- (f) under section 15C(4), refusing a request for the issue of a certificate;
 - (g) under section 15D(4), refusing to make a declaration that a person should no longer be deemed unsuited to act as a childminder.
- (Added 38 of 1997 s. 19)

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|-----|--------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 34. | Wild Animals Protection Ordinance (Cap 170) | A decision of the Director in relation to-
(a) the granting of or the refusal to grant a permit or a special permit pursuant to section 13 or 15; or
(b) the cancellation of a permit or a special permit under section 15A. (Added 77 of 1996 s. 22) |
| 35. | Occupational Safety and Health Ordinance (Cap 509) | A decision of the Commission for Labour under Part III. (Added 39 of 1997 s. 49) |
| 36. | Ozone Layer Protection Ordinance (Cap 403) | A decision of the Director of Environmental Protection under section 5, 6 or 7 or under provisions of the regulations that may be specified to be subject to an appeal under section 8. (Added 6 of 1997 s. 10) |
| 39. | Volunteer and Naval Volunteer Pensions Ordinance (Cap 202) | A decision in a review under section 22. (Added 56 of 1997 s. 7) |
| 40. | Child Care Services Regulations (Cap 243 sub. leg.) | A decision of the Director of Social Welfare under regulation 4 refusing an application for inclusion in a register or removing the name of a person from a register. (Added L.N. 272 of 1997. Amended 32 of 2000 s. 37) |
| 41. | Prevention of Copyright Piracy Ordinance (Cap 544) | A decision of the Commissioner of Customs and Excise under section 11 or 12 of the Ordinance. (Added 22 of 1998 s. 43) |
| 42. | Education Ordinance (Cap 279) | (a) An attendance order made under section 74(1).
(b) A variation of an attendance order made under section 74(2). (Added 8 of 2001 s. 31) |
| 44. | Dangerous Dogs Regulation (Cap 167 sub. leg.) | A direction by an authorized officer under section 14 of the Regulation. (Added L.N. 185 of 2000) |
| 45. | Factories and Industrial Undertakings (Safety Management) Regulation (Cap 59 sub. leg. AF) | (a) A decision of the Commissioner for Labour to refuse to register a person under section 6 or to register a person under that section subject to conditions.
(b) A decision of the Commissioner for Labour under section 24(1) to require the appointment of a new safety review officer.
(c) A decision of the disciplinary board under section 29(2) to reprimand a registered person, cancel the registration of a registered person or suspend the registration of a registered person. (Added L.N. 298 of 1999) |
| 46. | Port Control (Cargo Working Areas) Regulations (Cap 81 sub. leg.) | A decision of the Director or the supervisor under regulation 4A(4), 5B, 6AA, 7, 7A, 7B, 7C, 7D, 7E, 13 or 21. (Added L.N. 280 of 1999) |
| 49. | Road Traffic Ordinance (Cap 374) | A decision of the Commissioner of Police under section 55(3). (Added 3 of 2002 s. 17) |

Time within which appeals are to be made

An appeal under any item mentioned in this Schedule shall be made within 28 days after receipt of notice of the decision to which the appeal relates.

(Enacted 1994)

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Chapter:	479	Title:	NUCLEAR MATERIAL (LIABILITY FOR CARRIAGE) ORDINANCE	Gazette Number:	64 of 1999
Section:	10	Heading:	Jurisdiction, shared liability and foreign judgments	Version Date:	01/07/1997

Remarks:

Adaptation amendments retroactively made - see 64 of 1999 s. 3

(1) No court in Hong Kong shall have jurisdiction to determine any claim or question under this Ordinance which is certified by the Chief Executive to be a claim or question which, under any relevant international agreement, falls to be determined by a court of some other relevant territory, and any proceedings to enforce such a claim which are commenced in any court in Hong Kong shall be set aside. (Amended 64 of 1999 s. 3)

(2) Subject to subsection (3), where by virtue of section 3 and any relevant law liability in respect of the same injury or damage is incurred by 2 or more persons, then, for the purpose of any proceedings in Hong Kong relating to that injury or damage, including proceedings for the enforcement of a judgment registered under the Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap 319), both or all of those persons shall be treated as jointly and severally liable in respect of that injury or damage.

(3) Where liability as described in subsection (2) is incurred as a result of an occurrence involving nuclear material in the course of carriage in one and the same means of transport, the maximum total amount for which such persons shall be liable, apart from payments in respect of interest or costs, shall not exceed the highest amount required to be made available by the relevant law, together with such amounts, if any, as fall to be made available by means of relevant contributions.

(4) The Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap 319) shall apply to any judgment obtained in a court outside Hong Kong which is certified by the Chief Executive to be a relevant foreign judgment for the purposes of this Ordinance, whether or not it would otherwise have so applied, and shall have effect in relation to any judgment so certified as if in section 6 of that Ordinance subsections (1)(a)(ii), (2) and (3) were omitted. (Amended 64 of 1999 s. 3)

(5) Subject to subsection (6), it shall be a sufficient defence to proceedings in Hong Kong against any person for the recovery of a sum alleged to be payable under a judgment given in a country or territory outside Hong Kong for that person to show that-

- (a) the sum in question was awarded in respect of injury or damage of a description which is the subject of a relevant international agreement;
- (b) the country or territory in question is not a relevant territory; and
- (c) the sum in question was not awarded in pursuance of any of the international agreements referred to in section 6(2)(a).

(6) Subsection (5) shall not have effect where the judgment in question is enforceable in Hong Kong in pursuance of an international agreement.

(7) Where, in the case of any claim by virtue of section 3 the relevant operator is the government of a relevant territory, then, for the purposes of any proceedings brought in a court in Hong Kong to enforce that claim, that government shall be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which any such action is to be commenced and carried on.

(8) Nothing in subsection (7) shall authorize the issue of execution against the property of the government of a relevant territory.

(Enacted 1995)
[cf. 1965 c. 57 s. 17 U.K.]

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Chapter:	525	Title:	MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS ORDINANCE	Gazette Number:	L.N. 123 of 1998
Section:	12	Heading:	Requests to Hong Kong for search and seizure	Version Date:	20/02/1998

(1) Where-

- (a) a criminal matter involving an external serious offence has commenced in a place outside Hong Kong;
- (b) there are reasonable grounds to believe that a thing (including a thing belonging to a class of things) relevant to the criminal matter is located in Hong Kong; and
- (c) an appropriate authority of that place requests the Secretary for Justice to arrange for the issue of a search warrant under this section in relation to that thing,

the Secretary for Justice may nominate in writing an authorized officer to apply to a magistrate for the search warrant so requested. (Amended L.N. 362 of 1997)

(2) Where an authorized officer nominated under subsection (1) has reason to believe that the thing to which the request relates is, or will, at a specified time, be-

- (a) on a person;
- (b) in the clothing that is being worn by a person;
- (c) otherwise in a person's effective control;
- (d) upon any land; or
- (e) upon or in any premises,

the relevant officer may-

- (i) lay before a magistrate an information on oath setting out the grounds for that belief; and
- (ii) apply for the issue of a warrant under this section.

(3) Where an application is made under subsection (2), the magistrate shall, subject to subsection (4), issue a warrant authorizing an authorized officer (whether or not named in the warrant), with such assistance, and by such force, as is necessary and reasonable to do such of the following as are specified in the warrant-

- (a) to search a person specified in the warrant for the thing;
- (b) to enter upon land, or upon or into premises, specified in the warrant;
- (c) to search any such land or premises for the thing; and
- (d) to seize any thing found in the course of any such search that the relevant officer believes, on reasonable grounds, to be relevant to the criminal matter in the place outside Hong Kong concerned.

- (4) A magistrate shall not issue a warrant under this section unless-
- (a) the informant or some other person has given to the magistrate either orally on oath or by affidavit, such further information, if any, as the magistrate requires concerning the grounds on which the issue of the warrant is sought; and
 - (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (5) There shall be stated in a warrant issued under this section-
- (a) the purpose for which the warrant is issued, including a reference to the nature of the criminal matter in relation to which the search is authorized;
 - (b) whether the search is authorized at any time of the day or night or during specified hours of the day or night;
 - (c) a description of the kind of things authorized to be seized; and
 - (d) a day, not being later than one month after the issue of the warrant, on which the warrant ceases to have effect.
- (6) If, in the course of searching, under a warrant issued under this section, for a thing of a kind specified in the warrant, the authorized officer finds another thing that the authorized officer believes on reasonable grounds-
- (a) to be relevant to the criminal matter in the place outside Hong Kong concerned or to afford evidence as to the commission of a Hong Kong offence; and
 - (b) is likely to be concealed, lost, destroyed or altered if it is not seized,
- the warrant shall be deemed to authorize the authorized officer to seize the other thing.
- (7) Where an authorized officer finds, as a result of a search in accordance with a warrant issued under this section, a thing which the authorized officer seizes wholly or partly because he believes the thing on reasonable grounds to be relevant to the criminal matter in the place outside Hong Kong concerned, the authorized officer shall deliver the thing into the custody and control of the Commissioner.
- (8) Where a thing is delivered into the custody and control of the Commissioner under subsection (7), the Commissioner shall arrange for the thing to be kept for a period not exceeding one month from the day on which the thing was seized pending a direction in writing from the Secretary for Justice as to the manner in which the thing is to be dealt with (which may include, subject to subsection (11), a direction that the thing be sent to an appropriate authority of a place outside Hong Kong). (Amended L.N. 362 of 1997)
- (9) An authorized officer who executes a search warrant issued under this section shall, as soon as practicable after the execution of the warrant, give to the person, or give to the owner or occupier of the land or premises or leave in a prominent position on the land or at the premises, as the case requires-
- (a) a notice setting out-
 - (i) the name and rank of the authorized officer;
 - (ii) the name of the magistrate who issued the warrant and the day on which it was issued; and
 - (iii) a description of any thing seized and removed in accordance with the warrant; and
 - (b) in the case of any such thing which is a document, a copy of the document if that person, owner or occupier, as the case may be, so requests.
- (10) Where subsection (3)(a) is applicable to a warrant issued under this section-
- (a) an authorized officer acting in accordance with the warrant may remove, or require a person to remove, any of the clothing that the person is wearing but only if the removal of the clothing is necessary and reasonable for an effective search of the person under the warrant;
 - (b) a person shall not be searched pursuant to the warrant except by a person of the same sex;
 - (c) nothing in this section shall be taken to authorize an authorized officer to carry out a search by way of an examination of a body cavity of a person;
 - (d) an authorized officer may also search-
 - (i) the clothing that is being worn by a person; and
 - (ii) any property in, or apparently in, the person's effective control.

(11) The Secretary for Justice shall not give a direction under subsection (8) that the original of a thing be sent to the appropriate authority of a place outside Hong Kong unless-

- (a) the appropriate authority of the place has, not more than 1 month after the thing was seized, given the Secretary for Justice a notice in writing setting out the grounds on which the original of the thing is required for the purposes of the criminal matter concerned in that place; and
- (b) in any case where the Secretary for Justice is of the opinion, after considering all the circumstances, that the original of the thing should be returned to Hong Kong upon the conclusion of the proceedings relating to that criminal matter, the appropriate authority has given an unqualified undertaking to the Secretary for Justice that the original of the thing will be so returned. (Amended L.N. 362 of 1997)

(12) In this section, "Commissioner" (部門首長) means, where the authorized officer concerned is an authorized officer by virtue of-

- (a) paragraph (a) or (d) of the definition of "authorized officer", Commissioner within the meaning of the Police Force Ordinance (Cap 232);
- (b) paragraph (b) of the definition of "authorized officer", Commissioner within the meaning of the Customs and Excise Service Ordinance (Cap 342);
- (c) paragraph (c) of the definition of "authorized officer", Commissioner within the meaning of the Independent Commission Against Corruption Ordinance (Cap 204).

(13) For the purposes of this section, in the case of a criminal matter in a place outside Hong Kong which is an investigation into an external offence relating to taxation, "thing" does not include a tax document which-

- (a) is the property of a tax adviser or relevant auditor; and
- (b) in the case of a tax adviser, originates from him, or from his client or another tax adviser of the client, for or in connection with the giving or obtaining of advice about the tax affairs of the client.

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Chapter:	528	Title:	COPYRIGHT ORDINANCE	Gazette Number:	L.N. 46 of 2001
Section:	198	Heading:	Minor definitions	Version Date:	01/04/2001

(1) In this Part- (Amended 64 of 2000 s. 10)

"article" (文章), in the context of an article in a periodical, includes an item of any description;

"article in transit" (過境物品) means an article which-

- (a) is brought into Hong Kong solely for the purpose of taking it out of Hong Kong; and
- (b) remains at all times in or on the vessel or aircraft in or on which it is brought into Hong Kong;

"authorized officer" (獲授權人員) means any public officer authorized in writing by the Commissioner to exercise any of the powers and perform any of the duties conferred or imposed on an authorized officer under this Ordinance;

"business" (業務) includes a trade or profession;

"collective work" (匯集作品) means-

- (a) a work of joint authorship; or
- (b) a work in which there are distinct contributions by different authors or in which works or parts of works of different authors are incorporated;

"Commissioner" (關長) means the Commissioner of Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise; (Replaced 22 of 1999 s. 3)

"computer-generated" (電腦產生), in relation to a work, means that the work is generated by computer in circumstances such that there is no human author of the work;

"electronic" (電子) means actuated by electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, and "in electronic form" (電子形式) means in a form usable only by electronic means;

"employed" (受僱), "employee" (僱員), "employer" (僱主) and "employment" (僱用) refer to employment under a contract of service or of apprenticeship;

"export" (輸出) means to take, or cause to be taken, out of Hong Kong any article;

"facsimile copy" (精確複製品) includes a copy which is reduced or enlarged in scale;

"import" (輸入) means to bring, or cause to be brought, into Hong Kong any article;

"international organization" (國際組織) means an organization the members of which include one or more countries, territories or areas;

"judicial proceedings" (司法程序) includes proceedings before any court, tribunal or person having authority to decide any matter affecting a person's legal rights or liabilities;

"producer" (製作人), in relation to a sound recording or a film, means the person by whom the arrangements necessary for the making of the sound recording or film are undertaken;

"rental right" (租賃權) means the right of a copyright owner to authorize or prohibit the rental of copies of a computer program or sound recording (see section 25);

"reprographic copy" (翻印複製品) refers to a copy made by means of a reprographic process;

"reprographic process" (翻印程序) means a process-

- (a) for making facsimile copies; or
- (b) involving the use of an appliance for making multiple copies,

and includes, in relation to a work held in electronic form, any copying by electronic means, but does not include the making of a sound recording or film;

"sufficient acknowledgement" (足夠的確認聲明) means an acknowledgement identifying the work in question by its title or other description, and identifying the author unless-

- (a) in the case of a published work, it is published anonymously;
- (b) in the case of an unpublished work, it is not possible for a person to ascertain the identity of the author by reasonable inquiry;

"sufficient disclaimer" (足夠的卸責聲明), in relation to an act capable of infringing the right conferred by section 92 (right to object to derogatory treatment of work), means a clear and reasonably prominent indication-

- (a) given at the time of the act; and
- (b) if the author or director is then identified, appearing along with the identification,

that the work has been subjected to treatment to which the author or director has not consented;

"telecommunications system" (電訊系統) means a system for transmitting visual images, sounds or other information by electronic means;

"typeface" (字體) includes an ornamental motif used in printing;

"unauthorized" (未經授權), as regards anything done in relation to a work, means done otherwise than-

- (a) by or with the licence of the copyright owner;
- (b) if copyright does not subsist in the work, by or with the licence of the author or, in a case where section 14(1) would have applied, the author's employer or, in either case, persons lawfully claiming under him; or
- (c) in pursuance of section 57 (copying, etc. of certain material by the Government);

"wireless telegraphy" (無線電訊) means the sending of electro-magnetic energy over paths which are not provided by any material substance constructed or arranged for that purpose;

"writing" (書面) includes any form of notation or code, whether by hand or otherwise and regardless of the method by which, or medium in or on which, it is recorded, and "written" (寫出) is construed accordingly.

(2) In sections 31(2), 32(3), 95(1A), 96(6A), 109(1A), 118(8A) and 120(2A), "dealing in" (經營) includes buying, selling, letting for hire, importing, exporting and distributing. (Added 64 of 2000 s. 10) [cf. 1988 c. 48 s. 178 U.K.]

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Chapter:	545	Title:	LAND (COMPULSORY SALE FOR REDEVELOPMENT) ORDINANCE	Gazette Number:	L.N. 104 of 1999
Section:	2	Heading:	Interpretation	Version Date:	07/06/1999

- (1) In this Ordinance, unless the context otherwise requires-
- "auction" (拍賣), in relation to a lot, means the auction of the lot pursuant to section 5(1)(a);
- "building" (建築物) means a building within the meaning of the Buildings Ordinance (Cap 123);
- "directions" (指示) means directions under section 4(6);
- "lis pendens" (待決案件) means a lis pendens-
- (a) within the meaning of section 1A of the Land Registration Ordinance (Cap 128); and
 - (b) which is registered under that Ordinance;
- "lot" (地段)-
- (a) means-
 - (i) any piece or parcel of ground the subject of a Government lease;
 - (ii) a section which by virtue of section 8(3) or 27(2) of the Crown Rent and Premium (Apportionment) Ordinance (Cap 125) is deemed to be a lot for the purposes of that Ordinance;
 - (b) includes a section and subsection of a lot;
- "majority owner" (多數份數擁有人), in relation to a lot-
- (a) means the person or persons who has or have made an application under section 3(1) in respect of the lot; and
 - (b) includes any person who becomes a successor in title to any such person or persons at any time before a purchaser of the lot becomes the owner of the lot where the lot is the subject of an order for sale;
- "minority owner" (少數份數擁有人), in relation to a lot which is the subject of an application under

section 3(1)-

- (a) means the person or persons who-
 - (i) owns or own undivided shares in the lot otherwise than as a mortgagee; but
 - (ii) is or are not the person or persons who has or have made the application; and
- (b) includes any person who becomes a successor in title to any such person or persons at any time before a purchaser of the lot becomes the owner of the lot where the lot is the subject of an order for sale;

"mortgage" (按揭) means a security over a lot (including an undivided share in a lot) for securing money or money's worth;

"mortgagee" (承按人) includes any person claiming under a mortgagee but does not include a mortgagee in possession;

"order for sale" (售賣令) means an order under section 4(1)(b)(i);

"property" (物業) means immovable property;

"purchaser" (購買者), in relation to a lot the subject of an order for sale, means the purchaser of the lot at an auction (or, where section 5(1)(b) is applicable, the purchaser of the lot by the other means referred to in that section);

"redevelopment" (重新發展), in relation to a lot, means the replacement of a building on (or formerly on) the lot;

"tenancy" (租賃) includes a sub-tenancy;

"tenant" (租客) includes a sub-tenant;

"Tribunal" (審裁處) means the Lands Tribunal;

"trustees" (受託人), in relation to an order for sale, means the trustees appointed under the order.

(2) References in this Ordinance to an application under section 3(1) shall be construed to include any documents required by that section or Schedule 1 to accompany the application.

(3) It is hereby declared that-

- (a) for the purposes of-
 - (i) the definition of "minority owner"; and
 - (ii) the definition of "majority owner" as read with section 3(1),
a mortgagee in possession of any property on a lot shall be deemed to be the owner of the undivided shares in the lot which relate to that property;
- (b) where there is any inconsistency between the provisions of this Ordinance and the provisions of the Trustee Ordinance (Cap 29) in relation to the trustees under an order for sale, the provisions of this Ordinance shall prevail over the provisions of the Trustee Ordinance (Cap 29) to the extent of that inconsistency;
- (c) for the purposes of this Ordinance, the purchaser of a lot the subject of an order for sale does not become the owner of the lot until the purchaser of the lot is the legal owner of all the undivided shares in the lot.