

**STATUTE LAW (MISCELLANEOUS PROVISIONS)
(NO. 2) ORDINANCE 2008**

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 25 OF 2008

L.S.

Donald TSANG
Chief Executive
10 July 2008

An Ordinance to provide for miscellaneous amendments to various Ordinances and for connected purposes.

[11 July 2008]

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title

This Ordinance may be cited as the Statute Law (Miscellaneous Provisions) (No. 2) Ordinance 2008.

PART 2

NEW POST TITLES OF PROSECUTORS OF RANK OF SENIOR
GOVERNMENT COUNSEL AND GOVERNMENT COUNSEL
IN DEPARTMENT OF JUSTICE

Legal Officers Ordinance

2. Schedule 1 amended

Schedule 1 to the Legal Officers Ordinance (Cap. 87) is amended, under the heading of “DEPARTMENT OF JUSTICE”, by repealing—

“Government Counsel.
Assistant Government Counsel.”

and substituting—

“Senior Public Prosecutor.
Government Counsel.
Public Prosecutor.”.

Related Amendments

Magistrates Ordinance

3. Appointment of public prosecutors by Secretary for Justice

(1) Section 13 of the Magistrates Ordinance (Cap. 227) is amended, in the heading, by repealing “**public prosecutors**” and substituting “**official prosecutors**”.

(2) Section 13 is amended by repealing “public prosecutor” where it twice appears and substituting “official prosecutor”.

4. Private prosecution and intervention by the Secretary for Justice

Section 14(3) is amended by repealing “public prosecutor” and substituting “legal officer in the Department of Justice”.

5. Power for public prosecutor to withdraw case

The heading of section 15 is repealed and the following substituted—
“**Secretary for Justice may withdraw case by entering nolle prosequi**”.

6. Authority of legal officer to prosecute, etc.

Section 17 is repealed.

District Court Ordinance

7. Right of audience

Section 15(3) of the District Court Ordinance (Cap. 336) is repealed.

8. Signing and form of charge sheet

Section 77(1) is amended by repealing “, other than an assistant government counsel,”.

9. Form of charge sheet

(1) The First Schedule is amended, in the English text, by repealing “, 19” where it twice appears.

(2) The First Schedule is amended by repealing “*Government Counsel*” where it twice appears and substituting “(*Name and post title of the legal officer*)”.

PART 3

DELIVERY OF ORIGINAL TITLE DEEDS IN SALE OF LAND

Conveyancing and Property Ordinance

10. Section added

The Conveyancing and Property Ordinance (Cap. 219) is amended by adding—

“13A. Delivery of original deeds or documents of title

(1) Unless the contrary intention is expressed, a purchaser of land shall be entitled to require the vendor to deliver to him, for the purpose of giving title to that land, the original of both of the following only—

- (a) if there is a Government lease that relates exclusively to the land, the lease; and
- (b) any document that relates exclusively to the land and is required to be produced by the vendor as proof of title to that land under section 13(1)(a) and (c).

(2) Subsection (1) does not affect any rule of common law under which the vendor may discharge his obligation to give title to that land otherwise than by delivering the Government lease or document to the purchaser.

(3) If the vendor is not required to deliver to the purchaser a document in giving title to that land, the purchaser has no proprietary right or ownership in the document.

- (4) The fact that—
- (a) the vendor is not required to deliver to the purchaser a document in giving title to that land; and
 - (b) the purchaser has no proprietary right or ownership in the document,
- does not affect the right or interest of any other person in that land.”.

11. Covenants and conditions which may be incorporated by reference

(1) The Second Schedule is amended, in clause 8 of Part A, by repealing “relate exclusively to the property the subject of the agreement” and substituting “are required for the purpose of giving title to the property”.

(2) The Second Schedule is amended, in clause 9 of Part A, by repealing “good title to the property. The vendor shall” and substituting “title to the property in accordance with section 13A of the Conveyancing and Property Ordinance (Cap. 219). The vendor shall, in accordance with section 13 of that Ordinance,”.

PART 4

AMENDMENTS TO PROVISIONS CONTAINING REFERENCES TO REPEALED SUBSIDIARY LEGISLATION UNDER DISTRICT COURT ORDINANCE

Pneumoconiosis and Mesothelioma (Compensation) Appeal Rules

12. Application

Rule 2(2) of the Pneumoconiosis and Mesothelioma (Compensation) Appeal Rules (Cap. 360 sub. leg. C) is amended by repealing “District Court Civil Procedure (General) Rules (Cap. 336 sub. leg.)” and substituting “Rules of the District Court (Cap. 336 sub. leg. H)”.

Control of Obscene and Indecent Articles Rules

13. Costs

Rule 9 of the Control of Obscene and Indecent Articles Rules (Cap. 390 sub. leg. B) is amended by repealing “the District Court Civil Procedure (Costs) Rules (Cap. 336 sub. leg. B) as in force on 1 July 1987” and substituting “Order 62 of the Rules of the District Court (Cap. 336 sub. leg. H)”.

Architects Registration Ordinance

14. Disciplinary orders of inquiry committee and costs

Section 24(3)(b) of the Architects Registration Ordinance (Cap. 408) is amended by repealing “the First Schedule to the District Court Civil Procedure (Costs) Rules (Cap. 336 sub. leg. B)” and substituting “Part I of Schedule 1 to Order 62 of the Rules of the District Court (Cap. 336 sub. leg. H)”.

Engineers Registration Ordinance

15. Disciplinary orders of inquiry committee and costs

Section 23(3)(b) of the Engineers Registration Ordinance (Cap. 409) is amended by repealing “the First Schedule to the District Court Civil Procedure (Costs) Rules (Cap. 336 sub. leg. B)” and substituting “Part I of Schedule 1 to Order 62 of the Rules of the District Court (Cap. 336 sub. leg. H)”.

Surveyors Registration Ordinance

16. Disciplinary orders of inquiry committee and costs

Section 23(3)(b) of the Surveyors Registration Ordinance (Cap. 417) is amended by repealing “the First Schedule to the District Court Civil Procedure (Costs) Rules (Cap. 336 sub. leg. B)” and substituting “Part I of Schedule 1 to Order 62 of the Rules of the District Court (Cap. 336 sub. leg. H)”.

Planners Registration Ordinance

17. Disciplinary orders of inquiry committee and costs

Section 23(3)(b) of the Planners Registration Ordinance (Cap. 418) is amended by repealing “the First Schedule to the District Court Civil Procedure (Costs) Rules (Cap. 336 sub. leg. B)” and substituting “Part I of Schedule 1 to Order 62 of the Rules of the District Court (Cap. 336 sub. leg. H)”.

Administrative Appeals Board Ordinance

18. Provision relating to costs and witness expenses

Section 22(4)(b) of the Administrative Appeals Board Ordinance (Cap. 442) is amended by repealing “scales of costs specified in the First Schedule to the District Court Civil Procedure (Costs) Rules (Cap. 336 sub. leg. B)” and substituting “scale of costs specified in Part I of Schedule 1 to Order 62 of the Rules of the District Court (Cap. 336 sub. leg. H)”.

Landscape Architects Registration Ordinance

19. Disciplinary order of inquiry committee

Section 23(3)(b) of the Landscape Architects Registration Ordinance (Cap. 516) is amended by repealing “the First Schedule to the District Court Civil Procedure (Costs) Rules (Cap. 336 sub. leg. B)” and substituting “Part I of Schedule 1 to Order 62 of the Rules of the District Court (Cap. 336 sub. leg. H)”.

Housing Managers Registration Ordinance

20. Disciplinary order of inquiry committee

Section 23(3)(b) of the Housing Managers Registration Ordinance (Cap. 550) is amended by repealing “the First Schedule to the District Court Civil Procedure (Costs) Rules (Cap. 336 sub. leg. B)” and substituting “Part I of Schedule 1 to Order 62 of the Rules of the District Court (Cap. 336 sub. leg. H)”.

PART 5

AMENDMENT TO RATING ORDINANCE

21. Refusal to furnish information and obstruction

Section 46 of the Rating Ordinance (Cap. 116) is amended, in the Chinese text, by repealing “(1)” before “任何人——”.