

**LEGISLATIVE COUNCIL BRIEF
STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2005**

INTRODUCTION

At the meeting of the Executive Council on 1 February 2005, the Council ADVISED and the Chief Executive ORDERED that the Statute Law (Miscellaneous Provisions) Bill 2005, at **Annex A**, should be introduced into the Legislative Council.

JUSTIFICATIONS

2. The proposed amendments seek to improve the law in the following ways.

- (a) Following the implementation of the Accountability System, it is necessary for certain pension-related functions to be transferred from the Chief Secretary for Administration to the Secretary for the Civil Service who is the Principal Official responsible for civil service matters.
- (b) As the Executive Council Secretariat is now under the Chief Executive's Office, it is necessary to transfer the function to administer the Oath of Secrecy taken by the Clerk or Deputy Clerk to the Executive Council from the Chief Secretary for Administration to the Director of the Chief Executive's Office.
- (c) The power of the Chief Executive in Council to determine appeals under the provisions of the Medical Clinics Ordinance (Cap. 343) could be more efficiently exercised by the Administrative Appeals Board.
- (d) The Chief Justice considers it is necessary to –

- (i) transfer the chairmanship of certain committees and the rule-making and related powers in the Matrimonial Causes Ordinance (Cap. 179) from the Chief Justice to the Chief Judge of the High Court;
 - (ii) require members of the Judicial Officers Recommendation Commission who may be selected to fill a vacancy in judicial offices specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap. 92) (the “JORCO”) to declare interest;
 - (iii) specify the professional qualifications of certain judicial offices in the relevant legislation to reflect the established practice and for consistency with other judicial offices; and
 - (iv) update the list of judicial offices in Schedule 1 to the JORCO.
- (e) The Chinese University of Hong Kong considers that the Chinese name of the Convocation of the University does not reflect accurately its composition and proposes to change it from “評議會” to “校友評議會”.
- (f) The powers and operational efficiency of the Legal Aid Services Council (“LASC”) would be enhanced if LASC were empowered to appoint its own staff and to enter into contracts on its own, and the deadline for it to submit its annual report were extended.
- (g) There is a need to clarify certain expressions of the Trade Marks Ordinance (Cap. 559) to reflect the original intention of the relevant provisions.
- (h) It is desirable to amend the definition of “deception” in the Theft Ordinance (Cap. 210) to make it consistent with the definition of “deceit” in that Ordinance.

- (i) It is appropriate to require consent for the prosecution of a conspiracy to commit an offence, if that offence is one for which consent to prosecute is required.
- (j) It is an anomaly that a magistrate is empowered to impose imprisonment of seven years for the offence of possessing an imitation firearm under the Firearms and Ammunition Ordinance (Cap. 238). It is proposed to make the offence triable in the District Court and Court of First Instance.
- (k) It is appropriate to:
 - (i) prohibit a person who is the subject of investigation in respect of an offence reasonably suspected to have been committed by him under the Prevention of Bribery Ordinance (Cap. 201) (the “POBO”), and who is required to surrender his travel document, from leaving Hong Kong; and
 - (ii) empower officers of the Independent Commission Against Corruption (“ICAC”) to arrest an individual who fails to surrender his travel document, or who fails to comply with the conditions of a recognizance imposed under the POBO.
- (l) Section 32 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) provides that before leave to appeal is granted, it must be certified that the case involves a point of law of great and general importance or grave injustice has been done. The Court of Appeal, in its judgment on HKSAR v WONG Wah-ye, [2001]3 HKC 1 observed that it had no power to order costs where the prosecutor or a defendant applies unsuccessfully to the Court of Appeal or the Court of First Instance for a section 32 certificate. It is proposed to confer such a power.
- (m) It would be helpful to clarify the Legal Practitioners Ordinance (Cap. 159) to the effect that the Council of The Law Society of Hong Kong may make rules providing for

the professional practice of any solicitor, and may make indemnity rules in respect of any solicitor's practice, whether or not the solicitor is engaged in private practice.

- (n) Since The Chinese University of Hong Kong is about to establish a new law school, it is advisable to include its representatives in the Standing Committee on Legal Education and Training which is a statutory body on legal education and training in Hong Kong. The other tertiary institutions which have a law school are also represented in the Committee.
- (o) It is necessary to give effect to the Court of Final Appeal judgment in A Solicitor v The Law Society of Hong Kong & SJ, which held that section 13(1) of the Legal Practitioners Ordinance (Cap.159) was unconstitutional. That section provided that a decision by the Court of Appeal in respect of disciplinary proceedings concerning a solicitor shall be final. The absolute bar on any further appeal was held not justifiable. There are similar provisions in other ordinances which need to be amended as a result of that decision.
- (p) A number of textual errors and inconsistencies and other minor irregularities have been spotted in our legislation. These should be rectified.

OTHER OPTIONS

3. The proposed omnibus Bill is the only efficient option by which to make improvements to a number of Ordinances. It would be most inefficient to introduce individual Bills relating to each Ordinance that is to be amended.

THE BILL

4. The principal object of the Bill is to amend 34 Ordinances as listed at **Annex B**, in order to effect the improvements described in paragraph 2 above. The Bill comprises 6 parts. A brief description of

each part is at **Annex C**.

LEGISLATIVE TIMETABLE

5. The legislative timetable will be as follows –

Publication in the Gazette	18 February 2005
First Reading and commencement of Second Reading debate	9 March 2005
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

6. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no sustainability implication. The Bill will not affect the binding effect of the existing provisions of the subject Ordinances and their subsidiary legislation.

FINANCIAL IMPLICATIONS

7. The proposed amendments to make the offence of possessing an imitation firearm under section 20(1) of the Firearms and Ammunition Ordinance an indictable offence, which can be tried in the Court of First Instance or the District Court, may entail additional expenditure on costs to be incurred by the Department of Justice. Nevertheless, as the number of such cases is small, the costs resulting from the proposed amendments should be relatively small. The Department of Justice will absorb any additional court costs from within its existing resources.

8. The other proposed amendments would have no financial implications.

PUBLIC CONSULTATION

9. The proposed amendments to the following Ordinances were the subject of consultation –

- (a) Firearms and Ammunition Ordinance (Cap. 238)
- (b) Costs in Criminal Cases Ordinance (Cap. 492)
- (c) Crimes Ordinance (Cap. 200)
- (d) Theft Ordinance (Cap. 210)
- (e) Legal Practitioners Ordinance (Cap. 159)
- (f) Provisions relating to finality provisions in various Ordinances
- (g) Trade Marks Ordinance (Cap. 559)

Details of the consultation are at **Annex D**.

PUBLICITY

10. A press release will be issued on **16 February 2005**. A spokesman will be available to answer media and public enquiries.

ENQUIRY

11. Any enquiry on this brief should be addressed to Mr. Michael Scott, Senior Assistant Solicitor General, at telephone number 2867 2157 or Ms. Stella Chan, Government Counsel, at telephone number 2867 4900.

Legal Policy Division
Department of Justice
January 2005

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**STATUTE LAW
(MISCELLANEOUS PROVISIONS) BILL 2005**

ANNEXES

- Annex A - Statute Law (Miscellaneous Provisions) Bill 2005
- Annex B - List of Ordinances to be amended
- Annex C - Brief description of the Bill
- Annex D - Ordinances which were the subject of consultation

Ordinances amended :

- (1) Widows and Orphans Pension Ordinance (Cap. 94)
- (2) Pension Benefits Ordinance (Cap. 99)
- (3) Oaths and Declarations Ordinance (Cap. 11)
- (4) Medical Clinics Ordinance (Cap. 343)
- (5) Administrative Appeals Board Ordinance (Cap. 442)
- (6) Legal Aid Services Council Ordinance (Cap. 489)
- (7) Trade Marks Ordinance (Cap. 559)
- (8) The Chinese University of Hong Kong Ordinance (Cap. 1109)
- (9) Prevention of Bribery Ordinance (Cap. 201)
- (10) Theft Ordinance (Cap. 210)
- (11) Crimes Ordinance (Cap. 200)
- (12) Firearms and Ammunition Ordinance (Cap. 238)
- (13) Costs in Criminal Cases Ordinance (Cap. 492)
- (14) Judicial Officers Recommendation Commission Ordinance (Cap. 92)
- (15) High Court Ordinance (Cap. 4)
- (16) Criminal Procedure Ordinance (Cap. 221)
- (17) District Court Ordinance (Cap. 336)
- (18) Matrimonial Causes Ordinance (Cap. 179)
- (19) Legal Practitioners Ordinance (Cap. 159)
- (20) Land Survey Ordinance (Cap. 473)
- (21) Engineers Registration Ordinance (Cap. 409)
- (22) Landscape Architects Registration Ordinance (Cap. 516)
- (23) Surveyors Registration Ordinance (Cap. 417)
- (24) Planners Registration Ordinance (Cap. 418)
- (25) Architects Registration Ordinance (Cap. 408)
- (26) Professional Accountants Ordinance (Cap. 50)
- (27) Midwives Registration Ordinance (Cap. 162)
- (28) Nurses Registration Ordinance (Cap. 164)
- (29) Dentists Registration Ordinance (Cap. 156)
- (30) Supplementary Medical Professions Ordinance (Cap. 359)
- (31) Medical Registration Ordinance (Cap. 161)
- (32) Social Workers Registration Ordinance (Cap. 505)
- (33) Chinese Medicine Ordinance (Cap. 549)
- (34) Housing Managers Registration Ordinance (Cap. 550)

A brief description of the Bill —

1. Part 1 contains the preliminary provisions.
2. Part 2 contains amendments relating to transfer of functions and powers. It is divided into 5 Divisions :
 - (i) Division 1 transfers to the Secretary for the Civil Service certain functions of the Chief Secretary for Administration.
 - (ii) Division 2 amends the Oaths and Declarations Ordinance (Cap. 11) to transfer to the Director of the Chief Executive's Office the function of the Chief Secretary for Administration to administer the Oath of Secrecy taken by the Clerk or Deputy Clerk to the Executive Council.
 - (iii) Division 3 transfers to the Administrative Appeals Board the function of the Chief Executive in Council to determine appeals under the Medical Clinics Ordinance (Cap. 343).
 - (iv) Division 4 transfers the chairmanship of certain committees from the Chief Justice to the Chief Judge of the High Court.
 - (v) Division 5 transfers the rule-making and related powers in the Matrimonial Causes Ordinance (Cap. 179) from the Chief Justice to the Chief Judge of the High Court.
3. Part 3 contains amendments relating to the change of names, the enhancement of operational efficiency and the refinement of statutory provisions. It is divided into 9 divisions :
 - (i) Division 1 changes the Chinese name of the Convocation of The Chinese University of Hong Kong from “評議會” to “校友評議會”.
 - (ii) Division 2 amends the Legal Aid Services Council

Ordinance (Cap. 489) to empower the Legal Aid Services Council to do such things as are necessary to enable it to exercise its functions (including entering into contracts) and to appoint staff, and to extend the time limit within which the Council must submit an annual report to the Chief Executive.

- (iii) Division 3 amends the Trade Marks Ordinance (Cap. 559) to clarify when the period of 6 months referred to in section 41(1) of the Ordinance commences, and to elaborate the meaning of the expression "owner" in section 55(2) of that Ordinance. The proposed amendments reflect the original intention of the relevant provisions.
- (iv) Division 4 amends the Theft Ordinance (Cap. 210) to bring the terminology of the definition of "deception" in the Ordinance into line with that of the definition of "deceit" in the Ordinance which carries a similar meaning.
- (v) Division 5 amends the Crimes Ordinance (Cap. 200) to require consent for the prosecution of conspiracies to commit offences regarding which consent to prosecution is necessary.
- (vi) Division 6 amends the Firearms and Ammunition Ordinance (Cap. 238) to make possession of imitation firearms an indictable offence.
- (vii) Division 7 amends the Prevention of Bribery Ordinance (Cap. 201) to prohibit a person who is, by written notice, required to surrender his travel document from leaving Hong Kong, and to empower a person appointed by the Commissioner of ICAC to arrest the first-mentioned person for failure to comply with the notice.
- (viii) Division 8 amends the Costs in Criminal Cases Ordinance (Cap. 492) to empower the Court of Appeal and Court of

First Instance to award costs to the prosecutor or defendant on the other party's unsuccessful application for a certificate under the Hong Kong Court of Final Appeal Ordinance (Cap. 484).

- (ix) Division 9 amends the Professional Accountants Ordinance (Cap. 50), the Dentists Registration Ordinance (Cap. 156), the Legal Practitioners Ordinance (Cap. 159) the Medical Registration Ordinance (Cap. 161), the Midwives Registration Ordinance (Cap. 162), the Nurses Registration Ordinance (Cap. 164), the Supplementary Medical Professions Ordinance (Cap. 359), the Architects Registration Ordinance (Cap. 408), the Engineers Registration Ordinance (Cap. 409), the Surveyors Registration Ordinance (Cap. 417), the Planners Registration Ordinance (Cap. 418), the Land Survey Ordinance (Cap. 473), the Social Workers Registration Ordinance (Cap. 505), the Landscape Architects Registration Ordinance (Cap. 516), the Chinese Medicine Ordinance (Cap. 549) and the Housing Managers Registration Ordinance (Cap. 550) to repeal provisions in those Ordinances providing that a decision of the Court of Appeal on an appeal is final.

4. Part 4 contains amendments relating to judicial officers. It is divided into 3 Divisions :

- (i) Division 1 amends the Judicial Officers Recommendation Commission Ordinance (Cap. 92) to require a member of the Judicial Officers Recommendation Commission who may be selected to fill a vacancy in judicial offices to disclose whether or not, if he were to be selected, he is willing to accept appointment.
- (ii) Division 2 updates the list of judicial offices in the Judicial Officers Recommendation Commission Ordinance (Cap. 92).
- (iii) Division 3 amends the Hong Kong Court of Final Appeal

Ordinance (Cap. 484), the High Court Ordinance (Cap. 4), the District Court Ordinance (Cap. 336), the Lands Tribunal Ordinance (Cap. 17), the Magistrates Ordinance (Cap. 227), the Labour Tribunal Ordinance (Cap. 25), the Small Claims Tribunal Ordinance (Cap. 338) and the Coroners Ordinance (Cap. 504) to make provisions or further provisions for the professional qualifications of certain judicial officers.

5. Part 5 contains amendments relating to legal education and legal practitioners. It is divided into 2 Divisions :

- (i) Division 1 amends the Legal Practitioners Ordinance (Cap. 159) to include 2 representatives of The Chinese University of Hong Kong in the Standing Committee on Legal Education and Training established by that Ordinance.
- (ii) Division 2 amends the Legal Practitioners Ordinance (Cap. 159) to clarify that the Council of The Law Society of Hong Kong may make rules to provide for the professional practice of any solicitor and to make indemnity rules in respect of any solicitor's practice, whether or not the solicitor is engaged in private practice.

6. Part 6 contains miscellaneous amendments of a minor nature to certain statutes. It is divided into 8 Divisions :

- (i) Division 1 amends the Securities (Margin Financing) (Amendment) Ordinance 2000 (20 of 2000), the Securities (Amendment) Ordinance 2000 (30 of 2000), the Intellectual Property (Miscellaneous Amendments) Ordinance 2001 (2 of 2001) and the Securities and Futures Ordinance (5 of 2002) to remove the references to certain amending provisions that are no longer necessary.
- (ii) Division 2 amends the Landlord and Tenant (Consolidation) Ordinance (Cap. 7), the Import and

Export Ordinance (Cap. 60), the Pensions Ordinance (Cap. 89), the Pensions Regulations (Cap. 89 sub. leg. A), the Immigration (Refugee Status Review Boards) (Procedure) Regulations (Cap. 115 sub. leg. L), the Summary Offences Ordinance (Cap. 228), the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) and the Securities and Futures Ordinance (Cap. 571) to achieve internal consistency in terminology and consistency between the Chinese and English texts of those statutes.

- (iii) Division 3 amends the Merchant Shipping (Seafarers) Ordinance (Cap. 478) to replace a reference to the English citation of the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) with its Chinese citation.
- (iv) Division 4 amends the Firearms and Ammunition Ordinance (Cap. 238) and the Air Transport (Licensing of Air Services) Regulations (Cap. 448 sub. leg. A) to rectify errors in cross-references in those Ordinances.
- (v) Division 5 amends the Pilotage Ordinance (Cap. 84), the Eastern Harbour Crossing Road Tunnel By-laws (Cap. 215 sub. leg. E), the Radiation (Control of Radioactive Substances) Regulations (Cap. 303 sub. leg. A), the Road Tunnels (Government) Regulations (Cap. 368 sub. leg. A) and the Electricity (Wiring) Regulations (Cap. 406 sub. leg. E) to update the references in those statutes to the title of a set of regulations made under the Dangerous Goods Ordinance (Cap. 295), namely, the Dangerous Goods (Application and Exemption) Regulations (Cap. 295 sub. leg. A).
- (vi) Division 6 amends the Fire Services Ordinance (Cap. 95), the Police Force Ordinance (Cap. 232), the Prisons Ordinance (Cap. 234), the Government Flying Service Ordinance (Cap. 322), the Immigration Service Ordinance (Cap. 331) and the Customs and Excise

Service Ordinance (Cap. 342) to update the references in those Ordinances to the title of a notice given by the Chief Executive for the purposes of the Prevention of Bribery Ordinance (Cap. 201), namely, the Acceptance of Advantages (Chief Executive's Permission) Notice 2004 (G.N. 252 of 2004).

- (vii) Division 7 amends the Specification of Public Offices (Cap. 1 sub. leg. C) and the Customs and Excise Service Ordinance (Cap. 342) to update the references in those statutes to the title of a regulation made under the Customs and Excise Service Ordinance (Cap. 342), namely, the Customs and Excise Service (Welfare Fund) Regulation (Cap. 342 sub. leg. C).
- (viii) Division 8 amends the Labour Tribunal Ordinance (Cap. 25), the Companies Ordinance (Cap. 32), the Companies (Amendment) Ordinance 2004 (30 of 2004), the Frozen Confections Regulation (Cap. 132 sub. leg. AC), the Milk Regulation (Cap. 132 sub. leg. AQ), the Small Claims Tribunal Ordinance (Cap. 338), the Administrative Appeals Board Ordinance (Cap. 442) and the Legislative Council Ordinance (Cap. 542) to provide for consequential amendments that were omitted in previous amendment exercises.

Ordinances which were the subject of consultation –

Firearms and Ammunition Ordinances (Cap. 238)

1. The Law Society, the Hong Kong Bar Association, the University of Hong Kong, the City University of Hong Kong and the Judiciary Administrator were consulted in March 2003. The four consultees who replied all support the proposal.

Costs in Criminal Cases Ordinance (Cap. 492)

2. The Law Society, the Hong Kong Bar Association, the University of Hong Kong, the City University of Hong Kong, and the Judiciary Administrator were consulted in August 2004. The Law Society, the Judiciary Administrator and Mr. Gerard McCoy, SC support the proposal. The Hong Kong Bar Association supports the amendment to section 9 (i.e. costs be awarded to the defendant), but not section 13 (i.e. costs be awarded to the prosecutor), on the ground that –

- (a) for those whose representation is paid for by the Director of Legal Aid, it would be difficult to achieve the object of deterring unmeritorious applications;
- (b) for those who are either privately represented or represent themselves, the first thing that the court would do is to determine whether the applicant has sufficient means to meet such order, which results in leaving very few persons liable to face a costs order;
- (c) the prosecution would be unlikely to invoke this proposed power; and
- (d) a potential applicant in a meritorious case may be deterred from applying for a certificate if he does not wish to take the risk of an award costs being made against him.

3. The Administration has considered the Bar Association's comments. Although there may be some basis for them, the Administration does not think they outweigh the normal principle that the courts have the power to award costs against an unsuccessful party:

- (a) in trials and appeals, if the defendant is legally aided, it is also difficult to get prosecution costs. That is not to say that there should not be provision for prosecution costs in trials and appeals;
- (b) the fact that some defendants do not have the means to pay does not mean that there should not be provision for prosecution costs. If that is correct, there should not be any provisions for fines since some defendants cannot pay;
- (c) such a power is necessary and has the support of the Court of Appeal. The prosecution will invoke this power only when the application is unmeritorious but that does not mean that such power should not be provided for; and
- (d) prosecution costs will only be awarded if the application is unmeritorious. If the application is meritorious, the applicant should not be deterred. After all, costs is a matter of discretion for the courts.

4. Comments from the University of Hong Kong and the City University of Hong Kong have not been received.

Crimes Ordinance (Cap. 200)

5. The Law Society, the Hong Kong Bar Association, the University of Hong Kong, the City University of Hong Kong and the Judiciary Administrator were consulted in August 2004. The Judiciary Administrator has advised that it is not appropriate for the Judiciary to comment on the proposal as it concerns prosecution policy. Other than the University of Hong Kong and the City University of Hong Kong, from which we have not received comments, the other consultees and Mr.

Gerard McCoy, SC support the proposal.

Theft Ordinance (Cap. 210)

6. The amendment to section 17 of the Theft Ordinance was proposed by the LegCo Panel on Administration of Justice and Legal Services when the Theft (Amendment) Bill 1998 was introduced into the Legislative Council in December 1998.

Proposed amendments to empower the Law Society Council to make rules under the Legal Practitioners Ordinance (Cap. 159)

7. Consultation has been made with the Hong Kong Corporate Counsel Association which does not object to our proposed amendments.

Provisions relating to finality provisions in various Ordinances.

8. The relevant professional bodies have been consulted and they have no in-principle objection to the proposed repeal of the relevant finality provisions.

Trade Marks Ordinance (Cap. 559)

9. The Intellectual Property Department (“IPD”) has consulted the Hong Kong Institute of Trade Mark Practitioners, the Asian Patent Attorneys Association, the Law Society of Hong Kong and the Hong Kong Bar Association. The Law Society of Hong Kong supports the proposal. The IPD has not received any comments from other consultees while the Hong Kong Bar Association has no comment on the proposed amendments.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2005

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A BILL

To

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

Enacted by the Legislative Council.

PART 1

PRELIMINARY

1. Short title

This Ordinance may be cited as the Statute Law (Miscellaneous Provisions) Ordinance 2005.

2. Commencement

(1) This Ordinance, except Division 1 of Part 5, shall come into operation on the day on which it is published in the Gazette.

(2) Division 1 of Part 5 shall come into operation on a day to be appointed by the Secretary for Justice by notice published in the Gazette.

PART 2

AMENDMENTS RELATING TO THE TRANSFER OF
FUNCTIONS AND POWERS

**Division 1 - To transfer to the Secretary for the
Civil Service certain functions of the
Chief Secretary for Administration
relating to the pensions
of public officers**

Widows and Orphans Pension Ordinance

3. Contributors to other schemes

Section 4(3) of the Widows and Orphans Pension Ordinance (Cap. 94) is amended by repealing "Chief Secretary for Administration" where it twice appears and substituting "Secretary for the Civil Service".

Pension Benefits Ordinance

4. Power to amend Schedule

Section 34 of the Pension Benefits Ordinance (Cap. 99) is amended by repealing "Chief Secretary for Administration" and substituting "Secretary for the Civil Service".

**Division 2 - To transfer to the Director of the
Chief Executive's Office the function of
the Chief Secretary for Administration
to administer the Oath of Secrecy
to the Clerk and Deputy Clerk
to the Executive Council**

Oaths and Declarations Ordinance

**5. Oaths of Clerk and Deputy Clerk
to the Executive Council**

Section 20 of the Oaths and Declarations Ordinance (Cap. 11) is amended by repealing "Chief Secretary for Administration" and substituting "Director of the Chief Executive's Office".

**Division 3 - To transfer to the Administrative
Appeals Board the function of the Chief
Executive in Council to determine
appeals under the Medical
Clinics Ordinance**

Medical Clinics Ordinance

6. Right of appeal

Section 12(1) of the Medical Clinics Ordinance (Cap. 343) is amended by repealing "or within such further time as the Chief Executive in Council may allow, appeal against it by way of petition to the Chief Executive in Council." and substituting ", appeal against it to the Administrative Appeals Board.".

Administrative Appeals Board Ordinance

7. Schedule amended

The Schedule to the Administrative Appeals Board Ordinance (Cap. 442) is amended by adding -

- "62. Medical Clinics Ordinance (Cap. 343)
- (a) A refusal by the Registrar of Clinics under section 8 to grant or renew an exemption in respect of a clinic.
 - (b) A cancellation by the Registrar of Clinics under section 8 of an exemption granted in respect of a clinic.
 - (c) An order by the Registrar of Clinics under section 11 to refuse an application for the registration of a clinic or to cancel the registration of a clinic."

**Division 4 - To transfer to the Chief Judge
from the Chief Justice the chairmanship
of certain Rules Committees**

High Court Ordinance

8. Rules Committee

Section 55 of the High Court Ordinance (Cap. 4) is amended -

- (a) in subsection (1) -

- (i) in paragraph (a), by repealing "Chief Justice" and substituting "Chief Judge of the High Court, who shall be chairman";
 - (ii) in paragraphs (b) and (c), by repealing "Chief Justice" and substituting "Chief Judge of the High Court";
- (b) in subsection (1A), by repealing "Chief Justice" and substituting "Chief Judge of the High Court".

Criminal Procedure Ordinance

9. Rules and orders as to practice and procedure

Section 9(1)(a), (b), (c) and (h) of the Criminal Procedure Ordinance (Cap. 221) is amended by repealing "Chief Justice" and substituting "Chief Judge".

District Court Ordinance

10. District Court Rules Committee

Section 17 of the District Court Ordinance (Cap. 336) is amended -

- (a) in subsection (1), by repealing "Chief Justice" where it twice appears and substituting "Chief Judge";
- (b) in subsection (3), by repealing "Chief Justice" and substituting "Chief Judge";

- (c) in subsection (4), by repealing "Chief Justice" and substituting "Chief Judge".

**Division 5 - To transfer to the Chief Judge
certain rule-making and related powers
of the Chief Justice under the
Matrimonial Causes Ordinance**

Matrimonial Causes Ordinance

11. Hearing of petition

Section 15(5) of the Matrimonial Causes Ordinance (Cap. 179) is amended by repealing "Chief Justice" and substituting "Chief Judge".

12. Rules

Section 18B is amended by repealing "Chief Justice" and substituting "Chief Judge".

13. Rules

Section 54(1) and (2) is amended by repealing "Chief Justice" and substituting "Chief Judge".

Matrimonial Causes Rules

**14. Practice to be observed in
District Court**

Rule 122 of the Matrimonial Causes Rules (Cap. 179 sub. leg. A) is amended by repealing "Chief Justice" and substituting "Chief Judge".

Saving Provisions

15. Saving provisions

(1) Notwithstanding the amendment made by section 11 to section 15(5) of the Matrimonial Causes Ordinance (Cap. 179), any orders made under section 15(5) of that Ordinance which are in force immediately before the date of commencement of section 11 shall on and after that date continue in force as if they were made by the Chief Judge under section 15(5) of that Ordinance as amended by section 11.

(2) Notwithstanding the amendment made by section 12 to section 18B of the Matrimonial Causes Ordinance (Cap. 179), any rules made under section 18B of that Ordinance which are in force immediately before the date of commencement of section 12 shall on and after that date continue in force as if they were made by the Chief Judge under section 18B of that Ordinance as amended by section 12.

(3) Notwithstanding the amendment made by section 13 to section 54(1) and (2) of the Matrimonial Causes Ordinance (Cap. 179), any rules made under section 54(1) or (2) of that Ordinance which are in force immediately before the date of commencement of section 13 shall on and after that date continue in force as if

they were made by the Chief Judge under section 54(1) or (2) of that Ordinance as amended by section 13.

(4) Notwithstanding the amendment made by section 14 to rule 122 of the Matrimonial Causes Rules (Cap. 179 sub. leg. A), any directions issued under rule 122 of those Rules which are in force immediately before the date of commencement of section 14 shall on and after that date continue in force as if they were issued by the Chief Judge under rule 122 of those Rules as amended by section 14.

PART 3

AMENDMENTS RELATING TO THE CHANGE OF NAME, THE ENHANCEMENT OF OPERATIONAL EFFICIENCY AND THE REFINEMENT OF STATUTORY PROVISIONS

Division 1 - To change the Chinese name of the Convocation of The Chinese University of Hong Kong from "評議會" to "校友評議會"

The Chinese University of Hong Kong Ordinance

16. Definitions

Section 2(1) of The Chinese University of Hong Kong Ordinance (Cap. 1109) is amended, in the definition of "Council", "Senate", "Convocation", "Faculties", "Schools of Studies" and "Boards of Studies", by adding "校友" before "評議會".

17. Provision for Council, Senate and Convocation

Section 6 is amended by adding "校友" before "評議會".

18. Composition and function of the Convocation

Section 9 is amended by adding "校友" before "評議會".

19. Statutes

Section 13(1)(i) is amended by adding "校友" before "評議會".

20. Members of the University

Statute 3 of the Statutes of The Chinese University of Hong Kong in Schedule 1 is amended, in paragraph (m), by adding "校友" before "評議會".

21. The Council

Statute 11 is amended, in paragraph 1(n), by adding "校友" before "評議會" where it twice appears.

22. The Convocation

Statute 18 is amended -

(a) in the heading, by adding "校友" before "評議會";

(b) in paragraph 1 -

- (i) by adding "校友" after "設有";
- (ii) by repealing "評議會由" and substituting "由";
- (iii) by adding "校友" after "列";
- (c) in paragraph 2, by adding "校友" before "評議會" wherever it appears;
- (d) in paragraph 3, by adding "校友" before "評議會";
- (e) in paragraph 3A, by adding "校友" before "評議會";
- (f) in paragraph 3B, by adding "校友" before "評議會";
- (g) in paragraph 4, by adding "校友" before "評議會" where it twice appears;
- (h) in paragraph 5, by adding "校友" before "評議會";
- (i) in paragraph 7(1) and (2), by adding "校友" before "評議會" wherever it appears;
- (j) in paragraph 8, by adding "校友" before "評議會" where it twice appears;
- (k) in paragraph 9, by adding "校友" before "評議會" where it twice appears;
- (l) in paragraph 10, by adding "校友" before "評議會" where it twice appears.

Saving Provision

23. Saving provision

Where the term "評議會" referred to in section 6 of The Chinese University of Hong Kong Ordinance (Cap. 1109) as in force immediately before the date of commencement of section 17 is used in or in relation to any instrument, contract or legal proceeding that is in force or pending immediately before that date, then, on and after that date, the term "校友評議會" shall be deemed to be substituted therefor, and the instrument, contract or legal proceeding, as the case may be, shall be construed accordingly.

Consequential Amendments

Prevention of Bribery (Exclusion of Bodies and Members of Bodies of Educational Institutions) Notice

24. First Schedule amended

The First Schedule to the Prevention of Bribery (Exclusion of Bodies and Members of Bodies of Educational Institutions) Notice (Cap. 201 sub. leg. B) is amended, in item 2, by adding "校友" before "評議會".

Sex Discrimination Ordinance

25. Educational establishments and their responsible bodies

Schedule 1 to the Sex Discrimination Ordinance (Cap. 480) is amended, in item 2, by adding "校友" before "評議會".

Family Status Discrimination Ordinance

26. Educational establishments and their responsible bodies

Schedule 1 to the Family Status Discrimination Ordinance (Cap. 527) is amended, in item 2, by adding "校友" before "評議會".

Division 2 - To enhance the powers and operational efficiency of the Legal Aid Services Council

Legal Aid Services Council Ordinance

27. Section added

The Legal Aid Services Council Ordinance (Cap. 489) is amended by adding -

"4A. Power of the Council

The Council may do all such things as are necessary to enable it to exercise its functions under this Ordinance, and in particular may enter into, carry out, assign or accept the assignment of, vary or rescind any contract, agreement or other obligation."

28. Section added

The following is added -

"5A. Staff of the Council

The Council may appoint such persons as it requires to exercise and perform its functions, powers and duties under this Ordinance."

29. Reports

Section 12(1) is repealed and the following substituted -

"(1) The Council shall submit an annual report to the Chief Executive within 9 months of the end of each financial year, or such longer period as the Chief Executive may allow."

**Division 3 - To refine certain provisions in the
Trade Marks Ordinance to reflect the original
intention of those provisions**

Trade Marks Ordinance

30. Claim to priority

Section 41(1) of the Trade Marks Ordinance (Cap. 559) is amended by repealing "beginning on" and substituting "after".

31. Alteration of registered trade mark

Section 55(2) is amended -

- (a) by repealing "owner's name or address" and substituting "name or address of the owner or any previous owner";
- (b) by repealing "該擁有人" and substituting "該註冊商標的擁有人".

**Division 4 - To amend the definition of
"deception" in the Theft Ordinance**

Theft Ordinance

32. Obtaining property by deception

Section 17(4) of the Theft Ordinance (Cap. 210) is amended, in the definition of "deception" -

- (a) by adding "(whether by any act or omission)" after "conduct";
- (b) by repealing "or opinions".

**Division 5 - To require consent for the
prosecution of conspiracies to commit
offences regarding which consent
to prosecution is necessary**

Crimes Ordinance

33. Restriction on the institution of proceedings

Section 159D of the Crimes Ordinance (Cap. 200) is amended -

- (a) by renumbering it as section 159D(1);
- (b) by adding -

"(2) Any prohibition imposed by any enactment on the institution of proceedings for any offence otherwise than by, or on behalf or with the consent of, the Secretary for Justice or any other person also applies in relation to proceedings instituted under section 159A for conspiracy to commit that offence."

Division 6 - To make possession of imitation firearms an indictable offence

Firearms and Ammunition Ordinance

34. Possession of an imitation firearm

Section 20 of the Firearms and Ammunition Ordinance (Cap. 238) is amended -

- (a) in subsection (1), by adding "on conviction upon indictment" after "liable";
- (b) in subsection (2), by adding "on conviction upon indictment" after "liable";
- (c) in subsection (3), by repealing "magistrate" and substituting "court".

**Division 7 - To prohibit a person who is
required to surrender his travel
document from leaving
Hong Kong, etc.**

Prevention of Bribery Ordinance

35. Surrender of travel document

Section 17A of the Prevention of Bribery Ordinance (Cap. 201) is amended -

- (a) in subsection (3), by adding ", and shall not leave Hong Kong while the notice is in force" before the full stop;
- (b) in subsection (4), by adding "by a police officer or by a person appointed in that behalf by the Commissioner" before the full stop.

36. Return of travel documents

Section 17B is amended -

(a) by repealing subsection (5) and substituting -

"(5) A recognizance referred to in subsection (4) shall be subject to the conditions that -

(a) the applicant shall further surrender his travel document to the Commissioner at such time as may be specified; and

(b) the applicant shall appear at such time and place in Hong Kong as may be specified and at such other time and place in Hong Kong thereafter as may be further specified.";

(b) in subsection (6), by repealing "subject to such conditions as to the further surrender of the travel document and the appearance of the applicant at any time and place in Hong Kong as may be specified." and substituting -

"subject to any or all of the following
conditions -

- (a) the applicant shall further
surrender his travel document
to the Commissioner at such
time as may be specified;
- (b) the applicant shall appear at
such time and place in Hong
Kong as may be specified.";
- (c) in subsection (7), by adding ", the applicant shall
not leave Hong Kong while the travel document is so
surrendered, and" after "subsection (6)".

**Division 8 - To empower the courts to award costs
to the defendant or prosecutor on the other
party's unsuccessful application for
a certificate under the Hong
Kong Court of Final
Appeal Ordinance**

Costs in Criminal Cases Ordinance

37. Section added

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

"9B. Defence costs on unsuccessful application by prosecutor for a certificate of Court of Appeal or Court of First Instance

Where the prosecutor unsuccessfully applies to the Court of Appeal or the Court of First Instance for a certificate under section 32(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484), the Court of Appeal or the Court of First Instance, as the case may be, may order that costs be awarded to the defendant."

38. Section added

The following is added -

"13B. Prosecution costs on unsuccessful application by defendant for a certificate of Court of Appeal or Court of First Instance

Where a defendant unsuccessfully applies to the Court of Appeal or the Court of First Instance for a certificate under section 32(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484), the Court of Appeal or the Court of First Instance, as the case may be, may order that costs be awarded to the prosecutor."

**Division 9 - To repeal provisions in certain
Ordinances providing that the decision
of the Court of Appeal on
an appeal is final**

Professional Accountants Ordinance

39. Appeals

Section 41(2) of the Professional Accountants Ordinance (Cap. 50) is repealed.

Related Amendments

40. Interpretation

Section 2 is amended -

- (a) by renumbering it as section 2(1);
- (b) by adding -

"(2) For the purposes of sections 27(4)(b), 28D(10)(b)(i), 35(3) and 38(2), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

- (a) when the appeal to the Court of Appeal is withdrawn or abandoned;

- (b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;
- (c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -

- (i) when the application is withdrawn or abandoned;
- (ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or

(iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or

(d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -

(i) when the application is withdrawn, abandoned or refused; or

(ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of.

(3) In subsection (2) -

"application for leave to appeal" (上訴許可申請)

means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

(a) in the case of an application for leave to appeal made to the Court of Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

41. Removal from register of certain persons

Section 27(4)(b) is amended by repealing "an appeal under section 41, before a decision of the Court of Appeal affirming the order" and substituting "an appeal made to the Court of Appeal against the order under section 41, before the appeal is finally determined".

42. Qualification for registration of company as corporate practice

Section 28D(10)(b) is amended -

- (a) by repealing "unless" and substituting "before";
- (b) in subparagraph (i), by repealing "there is an appeal as regards the relevant removal, the appeal has been withdrawn or the relevant direction under this section was confirmed on appeal" and substituting "an appeal is made to the Court of

Appeal as regards the removal under subsection (9)(d)(ii), the appeal is finally determined".

**43. Disciplinary powers of
Disciplinary Committee**

Section 35(3) is amended -

- (a) by repealing ", or of any such order as varied on appeal by the Court of Appeal, as the case may be," and substituting "or, if the order is varied on appeal, the order as so varied";
- (b) in the proviso, by repealing "an appeal under section 41, before the decision of the Court of Appeal on such appeal" and substituting "an appeal made to the Court of Appeal against the order under section 41, before the appeal is finally determined".

**44. Provisions relating to orders
of the Disciplinary Committee**

Section 38(2) is amended by repealing "or in the case of an appeal under section 41 before the decision of the Court of Appeal on such appeal" and substituting "or, in the case of an appeal made to the Court of Appeal against the order under section 41, before the appeal is finally determined".

Dentists Registration Ordinance

45. Appeals

Section 23(2) of the Dentists Registration Ordinance (Cap. 156) is repealed.

Related Amendments

46. Interpretation

Section 2 is amended -

(a) by repealing -

"在本條例中"

and substituting -

"(1) 在本條例中";

(b) by adding -

"(3) For the purposes of sections 18(5) and 22(2), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

(a) when the appeal to the Court of Appeal is withdrawn or abandoned;

- (b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;
- (c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -

- (i) when the application is withdrawn or abandoned;
- (ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or
- (iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or

(d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -

(i) when the application is withdrawn, abandoned or refused; or

(ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of.

(4) In subsection (3) -

"application for leave to appeal" (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

(a) in the case of an application for leave to appeal made to the Court of Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

**47. Disciplinary inquiries
by the Council**

Section 18(5) is amended -

- (a) by repealing "after the decision of the Court of Appeal affirming or varying such order" and substituting "after the appeal is finally determined";
- (b) by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied".

**48. Provisions relating to
orders of the Council**

Section 22(2) is amended by repealing "and in the case of an appeal shall await the decision of the Court of Appeal" and substituting "or, in the case of an appeal made to the Court of Appeal against the order under section 23, before the appeal is finally determined".

Legal Practitioners Ordinance

49. Appeal and saving

Section 13(1) of the Legal Practitioners Ordinance (Cap. 159) is amended by repealing "and the decision of the Court of Appeal on any such appeal shall be final".

50. Appeal to Court of Appeal

Section 37B(1) is amended by repealing "and the decision of the Court of Appeal is final".

Related Amendments

51. Publication of findings of Solicitors Disciplinary Tribunal

Section 13A is amended -

(a) by renumbering it as section 13A(1);

(b) in subsection (1) -

(i) by repealing "the Solicitors Disciplinary Tribunal or the Court of Appeal, on an appeal under section 13, otherwise orders," and substituting "the Court of Final Appeal, the Court of Appeal or the Solicitors Disciplinary Tribunal otherwise orders,";

(ii) by repealing "or after completion of such an appeal" and substituting "or, if such an appeal has been made, after the appeal is finally determined";

(c) by adding -

"(2) For the purposes of subsection (1), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

(a) when the appeal to the Court of Appeal is withdrawn or abandoned;

(b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;

(c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -

(i) when the application is withdrawn or abandoned;

(ii) if the application is refused, when the specified period expires without an application for leave to appeal having been

made to the Court of
Final Appeal; or

(iii) if the application is
granted, when the
appeal to the Court
of Final Appeal is
withdrawn, abandoned
or disposed of; or

(d) if, before the expiry of the
specified period, an
application for leave to appeal
is made to the Court of Final
Appeal -

(i) when the application
is withdrawn,
abandoned or refused;
or

(ii) if the application is
granted, when the
appeal to the Court
of Final Appeal is
withdrawn, abandoned
or disposed of.

(3) In subsection (2) -

"application for leave to appeal" (上訴許可申請)

means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

(a) in the case of an application for leave to appeal made to the Court of Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

Medical Registration Ordinance

52. Appeals against orders of the Council

Section 26(2) of the Medical Registration Ordinance (Cap. 161) is repealed.

Related Amendments

53. Interpretation

Section 2 is amended -

(a) by renumbering it as section 2(1);

(b) by adding -

"(2) For the purposes of sections 21(5), 21A(2) and 25(2), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

(a) when the appeal to the Court of Appeal is withdrawn or abandoned;

(b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;

(c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -

(i) when the application is withdrawn or abandoned;

(ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or

(iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or

(d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -

(i) when the application is withdrawn, abandoned or refused; or

- (ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of.

(3) In subsection (2) -

"application for leave to appeal" (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

- (a) in the case of an application for leave to appeal made to the Court of Appeal, means -

- (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the

Hong Kong Court of
Final Appeal
Ordinance (Cap. 484)
is required to be
filed; or

(ii) if, on an application
made within the 28-
day period referred
to in subparagraph
(i), the Court of
Appeal extends that
period, the period as
so extended; or

(b) in the case of an application
for leave to appeal made to the
Court of Final Appeal, means -

(i) subject to
subparagraph (ii),
the period of 28 days
within which the
notice of motion
referred to in
section 24(4) of the
Hong Kong Court of
Final Appeal
Ordinance (Cap. 484)

is required to be
filed; or

- (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

54. Disciplinary powers of Council

Section 21(5) is amended -

- (a) by adding "to the Court of Appeal" after "may be made";
- (b) by repealing "after a decision affirming or varying such order" and substituting "after the appeal is finally determined";
- (c) in paragraph (a), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied".

55. Powers of Council in relation to fitness to practise of medical practitioners

Section 21A(2) is amended -

- (a) by adding "to the Court of Appeal" after "may be made";
- (b) by repealing "after a decision affirming or varying such order" and substituting "after the appeal is finally determined";
- (c) by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied".

56. Orders of the Council

Section 25(2) is amended by repealing "and in the case of an appeal shall await the decision of the Court of Appeal" and substituting "or, in the case of an appeal made to the Court of Appeal against the order under section 26, before the appeal is finally determined".

Midwives Registration Ordinance

57. Appeals

Section 15(2) of the Midwives Registration Ordinance (Cap. 162) is repealed.

Related Amendments

58. Interpretation

Section 2 is amended by adding -

"(3) For the purposes of sections 10(8)(b) and 14(2), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

- (a) when the appeal to the Court of Appeal is withdrawn or abandoned;
- (b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;
- (c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -
 - (i) when the application is withdrawn or abandoned;
 - (ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or

(iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or

(d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -

(i) when the application is withdrawn, abandoned or refused; or

(ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of.

(4) In subsection (3) -

"application for leave to appeal" (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

(a) in the case of an application for leave to appeal made to the Court of Appeal, means -

- (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or
 - (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or
- (b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -
- (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or
 - (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

59. Disciplinary powers of Council

Section 10 is amended -

(a) in subsection (6) -

(i) by repealing "and the order is not reversed by the Court of Appeal under section 15";

(ii) by adding "or, if the order is varied on appeal, the order as so varied" before "in the Gazette";

(b) in subsection (7) -

(i) by repealing "and the order is not reversed by the Court of Appeal under section 15";

(ii) by adding "or, if the order is varied on appeal, the order as so varied" before "in the Gazette";

(c) by repealing subsection (8)(b) and (c) and substituting -

"(b) if such an appeal has been made, the date on which the appeal is finally determined.".

60. Provisions relating to orders of Council

Section 14(2) is amended by repealing "an appeal against such order, until after the determination of the appeal" and substituting "an appeal made to the Court of Appeal against the order under section 15, before the appeal is finally determined".

61. Appeals

Section 15(1) is amended by adding "or order" after "the decision".

Nurses Registration Ordinance

62. Appeals

Section 22(1) of the Nurses Registration Ordinance (Cap. 164) is amended by repealing "and the decision of the Court of Appeal shall be final".

Related Amendments

63. Interpretation

Section 2 is amended -

- (a) by renumbering it as section 2(1);
- (b) by adding -

"(2) For the purposes of sections 17(6) and 21(2), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

(a) when the appeal to the Court of Appeal is withdrawn or abandoned;

(b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;

(c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -

(i) when the application is withdrawn or abandoned;

(ii) if the application is refused, when the specified period expires without an application for leave to appeal having been

made to the Court of
Final Appeal; or

(iii) if the application is
granted, when the
appeal to the Court
of Final Appeal is
withdrawn, abandoned
or disposed of; or

(d) if, before the expiry of the
specified period, an
application for leave to appeal
is made to the Court of Final
Appeal -

(i) when the application
is withdrawn,
abandoned or refused;
or

(ii) if the application is
granted, when the
appeal to the Court
of Final Appeal is
withdrawn, abandoned
or disposed of.

(3) In subsection (2) -

"application for leave to appeal" (上訴許可申請)

means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

(a) in the case of an application for leave to appeal made to the Court of Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

- (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

64. Disciplinary powers of the Council

Section 17(6) is amended -

- (a) by repealing "after the decision of the Court of Appeal affirming or varying such order" and substituting "after the appeal is finally determined";
- (b) by repealing "or the order as so varied, as the case may be," and substituting "or, if the order is varied on appeal, the order as so varied".

65. Provisions relating to orders of the Council

Section 21(2) is amended by repealing "an appeal against such order, until after the determination of such appeal" and substituting "an appeal made to the Court of Appeal against the order under section 22, before the appeal is finally determined".

66. Appeals

Section 22(1) is amended -

- (a) by adding "or an order" after "a decision";
- (b) by repealing "the decision of the Council" and substituting "the decision or the order, as the case may be".

Supplementary Medical Professions Ordinance

67. Appeals to Court of Appeal

Section 25(2) of the Supplementary Medical Professions Ordinance (Cap. 359) is repealed.

Related Amendments

68. Interpretation

Section 2 is amended by adding -

"(4) For the purposes of sections 22(2) and 24(2), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

- (a) when the appeal to the Court of Appeal is withdrawn or abandoned;

- (b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;
- (c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -
 - (i) when the application is withdrawn or abandoned;
 - (ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or
 - (iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or
- (d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -
 - (i) when the application is withdrawn, abandoned or refused; or
 - (ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of.

(5) In subsection (4) -
"application for leave to appeal" (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

(a) in the case of an application for leave to appeal made to the Court of Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

- (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or
- (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

69. Disciplinary powers of board

Section 22(2) is amended -

- (a) by repealing "after the decision of the Court of Appeal affirming or varying such order" and substituting "after the appeal is finally determined";
- (b) in paragraph (a), by repealing "or the order as so varied, as the case may be, publish the order" and substituting "publish the order or, if the order is varied on appeal, the order as so varied";
- (c) in paragraph (b), by repealing "or the order as so varied, as the case may be, publish the order" and substituting "publish the order or, if the order is varied on appeal, the order as so varied".

70. Provisions relating to decisions and orders of boards

Section 24(2) is amended -

- (a) by adding "to the Court of Appeal" before "against the decision";
- (b) by repealing "or while the appeal awaits determination by the Court of Appeal" and substituting "or, if such an appeal has been made, before the appeal is finally determined".

Architects Registration Ordinance

71. Appeal to Court of Appeal

Section 29(5) of the Architects Registration Ordinance (Cap. 408) is repealed.

Related Amendments

72. Interpretation

Section 2 is amended -

- (a) by renumbering it as section 2(1);
- (b) by adding -

"(2) For the purposes of sections 27(2) and 28(1), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

- (a) when the appeal to the Court of Appeal is withdrawn or abandoned;
- (b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;
- (c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -
 - (i) when the application is withdrawn or abandoned;
 - (ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or
 - (iii) if the application is granted, when the appeal to the Court of Final Appeal is

withdrawn, abandoned

or disposed of; or

(d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -

(i) when the application is withdrawn, abandoned or refused; or

(ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of.

(3) In subsection (2) -

"application for leave to appeal" (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

(a) in the case of an application for leave to appeal made to the Court of Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

73. Removal of name from the register

Section 20(3) is amended by adding "the Court of Final Appeal," before "the Court of Appeal".

74. Service of orders of inquiry committee

Section 27(2) is amended -

- (a) by repealing "28 days" and substituting "3 months";
- (b) by repealing ", and in the event of an appeal under section 29 or until the time therefor has expired shall await the decision of the Court of Appeal" and substituting "or, in the case of an appeal made to the Court of Appeal against the order under section 29, before the appeal is finally determined".

75. Publication of disciplinary orders

Section 28(1) is amended -

- (a) by repealing "an appeal under section 29 against an order of an inquiry committee under section 24(1)(a) to (e) may be made, or where in the case of an appeal the order is affirmed or varied or the appeal is abandoned" and substituting "an appeal may be made to the Court of Appeal under section 29 against an order of an inquiry committee made under section 24(1)(a), (b), (c), (d) or (e) or, if such an appeal has been made, after the appeal is finally determined";

- (b) in paragraph (a), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied";
- (c) in paragraph (b), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied".

76. Appeal to Court of Appeal

Section 29 is amended -

- (a) in subsection (1), by adding "or order" after "decision";
- (b) in subsection (2), by adding "or order" after "decision";
- (c) in subsection (3), by repealing "a decision" and substituting "an order".

Engineers Registration Ordinance

77. Appeal to Court of Appeal

Section 28(5) of the Engineers Registration Ordinance (Cap. 409) is repealed.

Related Amendments

78. Interpretation

Section 2 is amended -

(a) by renumbering it as section 2(1);

(b) by adding -

"(2) For the purposes of sections 26(2) and 27(1), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

(a) when the appeal to the Court of Appeal is withdrawn or abandoned;

(b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;

(c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -

(i) when the application is withdrawn or abandoned;

(ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or

(iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or

(d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -

(i) when the application is withdrawn, abandoned or refused; or

- (ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of.

(3) In subsection (2) -

"application for leave to appeal" (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

- (a) in the case of an application for leave to appeal made to the Court of Appeal, means -

- (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the

Hong Kong Court of
Final Appeal
Ordinance (Cap. 484)
is required to be
filed; or

- (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

- (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484)

is required to be
filed; or

- (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

79. Removal of name from the register

Section 19(3) is amended by adding "the Court of Final Appeal," before "the Court of Appeal".

80. Service of orders of inquiry committee

Section 26(2) is amended -

- (a) by repealing "28 days" and substituting "3 months";
- (b) by repealing ", and in the event of an appeal under section 28 or until the time therefor has expired shall await the decision of the Court of Appeal" and substituting "or, in the case of an appeal made to the Court of Appeal against the order under section 28, before the appeal is finally determined".

81. Publication of disciplinary orders

Section 27(1) is amended -

- (a) by repealing "an appeal under section 28 against an order of an inquiry committee under section 23(1)(a) to (e) may be made, or where in the case of an appeal the order is affirmed or varied or the appeal is abandoned" and substituting "an appeal may be made to the Court of Appeal under section 28 against an order of an inquiry committee made under section 23(1)(a), (b), (c), (d) or (e) or, if such an appeal has been made, after the appeal is finally determined";
- (b) in paragraph (a), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied";
- (c) in paragraph (b), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied".

82. Appeal to Court of Appeal

Section 28 is amended -

- (a) in subsection (2), by adding "or order" after "decision";
- (b) in subsection (3), by repealing "a decision" and substituting "an order".

Surveyors Registration Ordinance

83. Appeal to Court of Appeal

Section 28(5) of the Surveyors Registration Ordinance (Cap. 417) is repealed.

Related Amendments

84. Interpretation

Section 2 is amended -

(a) by renumbering it as section 2(1);

(b) by adding -

"(2) For the purposes of sections 26(2) and 27(1), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

(a) when the appeal to the Court of Appeal is withdrawn or abandoned;

(b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;

(c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -

(i) when the application is withdrawn or abandoned;

(ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or

(iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or

(d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -

- (i) when the application
is withdrawn,
abandoned or refused;
or
- (ii) if the application is
granted, when the
appeal to the Court
of Final Appeal is
withdrawn, abandoned
or disposed of.

(3) In subsection (2) -

"application for leave to appeal" (上訴許可申請)
means an application made to the Court of
Appeal or the Court of Final Appeal under
section 24 of the Hong Kong Court of
Final Appeal Ordinance (Cap. 484) for
leave to appeal to the Court of Final
Appeal from a judgment of the Court of
Appeal;

"specified period" (指明限期) -

- (a) in the case of an application
for leave to appeal made to the
Court of Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

- (i) subject to
subparagraph (ii),
the period of 28 days
within which the
notice of motion
referred to in
section 24(4) of the
Hong Kong Court of
Final Appeal
Ordinance (Cap. 484)
is required to be
filed; or
- (ii) if, on an application
made within the 28-
day period referred
to in subparagraph
(i), the Court of
Final Appeal extends
that period, the
period as so
extended."

85. Removal of name from the register

Section 19(3) is amended by adding "the Court of Final Appeal," before "the Court of Appeal".

86. Service of orders of inquiry committee

Section 26(2) is amended by repealing ", and in the event of an appeal under section 28 or until the time therefor has expired shall await the decision of the Court of Appeal" and substituting "or, in the case of an appeal made to the Court of Appeal against the order under section 28, before the appeal is finally determined".

87. Publication of disciplinary orders

Section 27(1) is amended -

- (a) by repealing "an appeal under section 28 against an order of an inquiry committee under section 23(1)(a) to (e) may be made, or where in the case of an appeal the order is affirmed or varied or the appeal is abandoned" and substituting "an appeal may be made to the Court of Appeal under section 28 against an order of an inquiry committee made under section 23(1)(a), (b), (c), (d) or (e) or, if such an appeal has been made, after the appeal is finally determined";
- (b) in paragraph (a), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied";
- (c) in paragraph (b), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied".

88. Appeal to Court of Appeal

Section 28 is amended -

- (a) in subsection (2), by adding "or order" after "decision";
- (b) in subsection (3), by repealing "a decision" and substituting "an order".

Planners Registration Ordinance

89. Appeal to Court of Appeal

Section 28(5) of the Planners Registration Ordinance (Cap. 418) is repealed.

Related Amendments

90. Interpretation

Section 2 is amended -

- (a) by renumbering it as section 2(1);
- (b) by adding -

"(2) For the purposes of sections 26(2) and 27(1), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

- (a) when the appeal to the Court of Appeal is withdrawn or abandoned;

- (b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;
- (c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -

- (i) when the application is withdrawn or abandoned;
- (ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or
- (iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or

(d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -

(i) when the application is withdrawn, abandoned or refused; or

(ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of.

(3) In subsection (2) -

"application for leave to appeal" (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

(a) in the case of an application for leave to appeal made to the Court of Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

91. Removal of name from the register

Section 19(3) is amended by adding "the Court of Final Appeal," before "the Court of Appeal".

92. Service of orders of inquiry committee

Section 26(2) is amended by repealing ", and in the event of an appeal under section 28 or until the time therefor has expired shall await the decision of the Court of Appeal" and substituting "or, in the case of an appeal made to the Court of Appeal against the order under section 28, before the appeal is finally determined".

93. Publication of disciplinary orders

Section 27(1) is amended -

- (a) by repealing "an appeal under section 28 against an order of an inquiry committee under section 23(1)(a) to (e) may be made, or where in the case of an appeal the order is affirmed or varied or the appeal is abandoned" and substituting "an appeal may be made to the Court of Appeal under section 28 against an order of an inquiry committee made under section 23(1)(a), (b), (c), (d) or (e) or, if such an appeal has been made, after the appeal is finally determined";

- (b) in paragraph (a), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied";
- (c) in paragraph (b), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied".

94. Appeal to Court of Appeal

Section 28 is amended -

- (a) in subsection (2), by adding "or order" after "decision";
- (b) in subsection (3), by repealing "a decision" and substituting "an order".

Land Survey Ordinance

95. Appeal from decisions of the Committee

Section 18(1) of the Land Survey Ordinance (Cap. 473) is amended by repealing "and the decision of the Court of Appeal is final".

96. Appeals from decisions or orders of the Disciplinary Board

Section 27(1) is amended by repealing "and the decision of the Court of Appeal is final".

Related Amendments

97. Removal of name from the register

Section 15(1)(d) is amended by repealing "a Disciplinary Board or the Court of Appeal" and substituting "the Court of Final Appeal, the Court of Appeal or a Disciplinary Board".

98. Reinstatement of name after removal

Section 16(3) is amended by adding "the Court of Final Appeal or" before "the Court of Appeal".

99. Publication of disciplinary orders

Section 26 is amended -

(a) by repealing subsection (1) and substituting -

"(1) Where a Disciplinary Board makes an order under section 25(1), then -

(a) subject to paragraphs (b) and (c), after the expiry of the period prescribed by Order 59, rule 4 of the Rules of the High Court (Cap. 4 sub. leg. A) for serving notice of appeal against the order;

(b) subject to paragraph (c), if the Court of Appeal on an application made within the period referred to in paragraph (a) extends that period, after the expiry of the period as so extended; or

(c) if an appeal is made within the period referred to in paragraph (a) or the extended period referred to in paragraph (b) to the Court of Appeal against the order under section 27, after the appeal is finally determined,

the Committee -

(d) shall publish a copy of the order or, if the order is varied on appeal, the order as so varied in at least 1 English and 1 Chinese language newspaper circulating daily in Hong Kong; and

(e) may publish the order or, if the order is varied on appeal, the order as so varied in any other publication or manner as the Committee thinks fit.";

(b) by adding -

"(4) For the purposes of subsection (1)(c), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

(a) when the appeal to the Court of Appeal is withdrawn or abandoned;

(b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;

(c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -

- (i) when the application is withdrawn or abandoned;
 - (ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or
 - (iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or
- (d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -

- (i) when the application
is withdrawn,
abandoned or refused;
or
- (ii) if the application is
granted, when the
appeal to the Court
of Final Appeal is
withdrawn, abandoned
or disposed of.

(5) In subsection (4) -

"application for leave to appeal" (上訴許可申請)
means an application made to the Court of
Appeal or the Court of Final Appeal under
section 24 of the Hong Kong Court of
Final Appeal Ordinance (Cap. 484) for
leave to appeal to the Court of Final
Appeal from a judgment of the Court of
Appeal;

"specified period" (指明限期) -

- (a) in the case of an application
for leave to appeal made to the
Court of Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

- (i) subject to
subparagraph (ii),
the period of 28 days
within which the
notice of motion
referred to in
section 24(4) of the
Hong Kong Court of
Final Appeal
Ordinance (Cap. 484)
is required to be
filed; or
- (ii) if, on an application
made within the 28-
day period referred
to in subparagraph
(i), the Court of
Final Appeal extends
that period, the
period as so
extended."

**100. Appeals from decisions or orders
of the Disciplinary Board**

Section 27 is amended -

- (a) in subsection (1), by adding "or order" after "with the decision";
- (b) in subsection (2), by adding "or order" after "decision".

Social Workers Registration Ordinance

101. Appeal to Court of Appeal

Section 33(5) of the Social Workers Registration Ordinance (Cap. 505) is repealed.

Related Amendments

102. Interpretation

Section 2 is amended by adding -

"(3) For the purposes of sections 31(2) and 32(1), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

- (a) when the appeal to the Court of Appeal is withdrawn or abandoned;
- (b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;

- (c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -
 - (i) when the application is withdrawn or abandoned;
 - (ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or
 - (iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or
- (d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -
 - (i) when the application is withdrawn, abandoned or refused; or
 - (ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of.

(4) In subsection (3) -
"application for leave to appeal" (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

(a) in the case of an application for leave to appeal made to the Court of Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

- (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or
- (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

103. Removal of name from Register

Section 22(3) is amended by repealing "the Board or the Court of Appeal" and substituting "the Court of Final Appeal, the Court of Appeal or the Board".

104. Service and implementation of disciplinary orders

Section 31(2) is amended -

- (a) by repealing ", and in the event of an appeal under that section, until the order is affirmed or varied by the Court of Appeal" and substituting "or, in the case of an appeal made to the Court of Appeal against the disciplinary order under that section, before the appeal is finally determined";

- (b) by repealing "in the latter case" and substituting "if the disciplinary order is varied on appeal".

105. Publication of disciplinary orders

Section 32(1) is amended -

- (a) by repealing "an appeal under section 33 against a disciplinary order may be made, or where in the case of an appeal the order is affirmed or varied or the appeal is abandoned" and substituting "an appeal may be made to the Court of Appeal under section 33 against a disciplinary order or, if such an appeal has been made, after the appeal is finally determined";
- (b) in paragraph (a), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied";
- (c) in paragraph (b), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied".

Landscape Architects Registration Ordinance

106. Appeal to Court of Appeal

Section 28(5) of the Landscape Architects Registration Ordinance (Cap. 516) is repealed.

Related Amendments

107. Interpretation

Section 2 is amended -

(a) by renumbering it as section 2(1);

(b) by adding -

"(2) For the purposes of sections 26(2) and 27(1), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

(a) when the appeal to the Court of Appeal is withdrawn or abandoned;

(b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;

(c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -

- (i) when the application is withdrawn or abandoned;
 - (ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or
 - (iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or
- (d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -

- (i) when the application
is withdrawn,
abandoned or refused;
or
- (ii) if the application is
granted, when the
appeal to the Court
of Final Appeal is
withdrawn, abandoned
or disposed of.

(3) In subsection (2) -

"application for leave to appeal" (上訴許可申請)
means an application made to the Court of
Appeal or the Court of Final Appeal under
section 24 of the Hong Kong Court of
Final Appeal Ordinance (Cap. 484) for
leave to appeal to the Court of Final
Appeal from a judgment of the Court of
Appeal;

"specified period" (指明限期) -

- (a) in the case of an application
for leave to appeal made to the
Court of Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

- (i) subject to
subparagraph (ii),
the period of 28 days
within which the
notice of motion
referred to in
section 24(4) of the
Hong Kong Court of
Final Appeal
Ordinance (Cap. 484)
is required to be
filed; or
- (ii) if, on an application
made within the 28-
day period referred
to in subparagraph
(i), the Court of
Final Appeal extends
that period, the
period as so
extended."

108. Removal of name from the register

Section 19(3) is amended by adding "the Court of Final Appeal," before "the Court of Appeal".

109. Service of orders of inquiry committee

Section 26(2) is amended -

- (a) by repealing "28 days" and substituting "3 months";
- (b) by repealing ", and in the event of an appeal under section 28 or until the time therefor has expired shall await the decision of the Court of Appeal" and substituting "or, in the case of an appeal made to the Court of Appeal against the order under section 28, before the appeal is finally determined".

110. Publication of disciplinary orders

Section 27(1) is amended -

- (a) by repealing "an appeal under section 28 against an order of an inquiry committee under section 23(1)(a) to (e) may be made, or where in the case of an appeal the order is affirmed or varied or the appeal is abandoned" and substituting "an appeal may be made to the Court of Appeal under section 28 against an order of an inquiry committee made under section 23(1)(a), (b), (c), (d) or (e) or, if such an appeal has been made, after the appeal is finally determined";

- (b) in paragraph (a), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied";
- (c) in paragraph (b), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied".

111. Appeal to Court of Appeal

Section 28 is amended -

- (a) in subsection (1), by adding "or order" after "decision";
- (b) in subsection (2), by adding "or order" after "decision";
- (c) in subsection (3), by repealing "a decision" and substituting "an order".

Chinese Medicine Ordinance

112. Appeals against orders of Practitioners Board

Section 103(3) of the Chinese Medicine Ordinance (Cap. 549) is repealed.

Related Amendments

113. Interpretation

Section 2 is amended -

(a) by renumbering it as section 2(1);

(b) by adding -

"(2) For the purposes of sections 98(5)(b) and 104(4) and (5), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances -

(a) when the appeal to the Court of Appeal is withdrawn or abandoned;

(b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;

(c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -

(i) when the application is withdrawn or abandoned;

(ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or

(iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or

(d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -

(i) when the application is withdrawn, abandoned or refused; or

- (ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of.

(3) In subsection (2) -

"application for leave to appeal" (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

- (a) in the case of an application for leave to appeal made to the Court of Appeal, means -
 - (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the

Hong Kong Court of
Final Appeal
Ordinance (Cap. 484)
is required to be
filed; or

- (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

- (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484)

is required to be
filed; or

- (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

114. Disciplinary powers of Practitioners Board

Section 98(5)(b) is amended by repealing "after a decision of the Court of Appeal has been made" and substituting "after the appeal is finally determined".

115. Publication of orders

Section 104 is amended -

- (a) in subsection (4) -

- (i) by repealing "after a decision affirming or varying the order has been made by the Court of Appeal" and substituting "after the appeal is finally determined";
- (ii) by repealing "the order as affirmed or varied on appeal" and substituting "the

order or, if the order is varied on appeal, the order as so varied";

(b) in subsection (5) -

(i) by repealing "after a decision affirming or varying the order has been made by the Court of Appeal" and substituting "after the appeal is finally determined";

(ii) by repealing "the order as affirmed or varied on appeal" and substituting "the order or, if the order is varied on appeal, the order as so varied".

Housing Managers Registration Ordinance

116. Appeal to Court of Appeal

Section 28(5) of the Housing Managers Registration Ordinance (Cap. 550) is repealed.

Related Amendments

117. Interpretation

Section 2 is amended -

(a) by renumbering it as section 2(1);

(b) by adding -

"(2) For the purposes of sections 26(2) and 27(1), an appeal to the Court of Appeal shall be deemed to be finally determined when

the earliest of the following events occurs,
whichever is applicable in the circumstances -

(a) when the appeal to the Court of Appeal is withdrawn or abandoned;

(b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;

(c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal -

(i) when the application is withdrawn or abandoned;

(ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or

(iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or

(d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal -

(i) when the application is withdrawn, abandoned or refused; or

(ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of.

(3) In subsection (2) -

"application for leave to appeal" (上訴許可申請)

means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期) -

(a) in the case of an application for leave to appeal made to the Court of Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means -

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or

- (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended."

118. Removal of name from the register

Section 19(3) is amended by adding "the Court of Final Appeal," before "the Court of Appeal".

119. Service of orders of inquiry committee

Section 26(2) is amended -

- (a) by repealing ", and in the event of" and substituting "or, in the case of";
- (b) by repealing "shall await the decision of the Court of Appeal" and substituting "before the appeal is finally determined".

120. Publication of disciplinary orders

Section 27(1) is amended -

- (a) by repealing "an appeal under section 28 against an order of an inquiry committee under section 23(1) may be made, or where in the case of an appeal the order is affirmed or varied or the appeal is abandoned" and substituting "an appeal may be made to the Court of Appeal under section 28 against an order of an inquiry committee made under section 23(1) or, if such an appeal has been made, after the appeal is finally determined";
- (b) in paragraph (a), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied";
- (c) in paragraph (b), by repealing "or the order as varied on appeal" and substituting "or, if the order is varied on appeal, the order as so varied".

121. Appeal to Court of Appeal

Section 28 is amended -

- (a) in subsection (2), by adding "or order" after "decision";
- (b) in subsection (3), by repealing "a decision" and substituting "an order".

PART 4

AMENDMENTS RELATING TO JUDICIAL OFFICERS

**Division 1 - To require disclosure of interest
in the selection process of
judicial officers**

**Judicial Officers Recommendation
Commission Ordinance**

122. Judicial Officers Recommendation Commission

Section 3(5B) of the Judicial Officers Recommendation Commission Ordinance (Cap. 92) is amended by repealing "is exercising its functions under section 6(a) of this Ordinance in relation to the filling of vacancies under sections 7 and 8 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) or to the extension of the term of office of the Chief Justice under section 14 of that Ordinance, a member" and substituting -

"is exercising its functions -

- (a) in relation to the filling of vacancies in judicial offices under section 6(a); or
- (b) in relation to the extension of the term of office of the Chief Justice under section 14 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484),

a member".

**Division 2 - To update the list of judicial offices
in the Judicial Officers Recommendation
Commission Ordinance**

**Judicial Officers Recommendation
Commission Ordinance**

123. Judicial office

Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap. 92) is amended -

(a) by repealing -

"Member of the Lands Tribunal

(being a member who is in the full-time service
of the Government)"

and substituting -

"Member of the Lands Tribunal appointed under
section 4(1)(c) of the Lands Tribunal
Ordinance (Cap. 17)";

(b) by adding -

"Registrar of the Court of Final Appeal"

after

"Adjudicator, Small Claims Tribunal";

(c) by adding -

"Senior Deputy Registrar, High Court"

after -

"Registrar of the High Court".

**Division 3 - To make provisions or further provisions
for the professional qualifications of
certain judicial officers**

High Court Ordinance

124. Professional qualifications of judges

Section 9 of the High Court Ordinance (Cap. 4) is amended -

(a) in subsection (1) -

(i) in paragraph (a), by repealing "as an advocate" and substituting "as a barrister or advocate";

(ii) by repealing "as an advocate or solicitor" and substituting "as a barrister, solicitor or advocate";

(b) in subsection (2) -

(i) in paragraph (a), by repealing "as an advocate" and substituting "as a barrister or advocate";

(ii) by adding -

"(iva) been the Registrar of the Hong Kong Court of Final Appeal appointed in accordance with section 42 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484);

- (ivb) been the Registrar or a senior deputy registrar, deputy registrar or assistant registrar appointed in accordance with section 37;
- (ivc) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);";
- (iii) in paragraph (v), by repealing "by warrant under" and substituting "in accordance with";
- (iv) by adding -
 - "(va) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);
 - (vb) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);

- (vc) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);";
- (v) in paragraph (viii), by repealing "a Director, Deputy Director, Assistant Director of Legal Aid or Legal Aid Officer" and substituting "the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer,";
- (vi) in paragraph (ix), by repealing "an Official Receiver," and substituting "the Official Receiver or an";
- (vii) in paragraph (x), by repealing "a Director, Deputy Director or Assistant Director of Intellectual Property or a Senior Solicitor," and substituting "the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor,";

- (c) in subsection (2A)(c)(i), by repealing "as an advocate or solicitor" and substituting "as a barrister, solicitor or advocate";
- (d) in subsection (3), by repealing "as an advocate or solicitor" and substituting "as a barrister, solicitor or advocate";
- (e) in subsection (5), by adding "Part I of the First Schedule to" after "specified in".

125. Registrar of High Court

Section 37 is amended -

- (a) in subsection (1), by adding "senior deputy registrars," before "deputy registrars";
- (b) in subsection (2), by adding "senior deputy registrars," before "deputy registrars".

126. Sections added

The following are added immediately after section 37 -

**"37AA. Professional qualifications of
Registrar, senior deputy
registrars, deputy registrars
and assistant registrars**

- (1) A person shall be eligible to be appointed as the Registrar if -

- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
- (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years -
 - (i) practised as a barrister, solicitor or advocate in such a court;
 - (ii) been a senior deputy registrar, deputy registrar or assistant registrar appointed in accordance with section 37;
 - (iii) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);
 - (iv) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);

- (v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);
- (vi) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);
- (vii) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);
- (viii) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);
- (ix) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
- (x) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);

- (xi) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (xii) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2) A person shall be eligible to be appointed as a senior deputy registrar if -

- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

- (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years -
- (i) practised as a barrister, solicitor or advocate in such a court;
 - (ii) been a deputy registrar or assistant registrar appointed in accordance with section 37;
 - (iii) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);
 - (iv) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);
 - (v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);
 - (vi) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);

- (vii) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);
- (viii) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);
- (ix) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
- (x) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
- (xi) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(xii) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(3) A person shall be eligible to be appointed as a deputy registrar if -

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years -

(i) practised as a barrister, solicitor or advocate in such a court;

(ii) been an assistant registrar appointed in accordance with section 37;

- (iii) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);
- (iv) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);
- (v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);
- (vi) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);
- (vii) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);
- (viii) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);
- (ix) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);

- (x) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
- (xi) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (xii) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(4) A person shall be eligible to be appointed as an assistant registrar if -

- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
- (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years -
 - (i) practised as a barrister, solicitor or advocate in such a court;
 - (ii) been a District Judge appointed in accordance with section 4 or 7 of the District Court Ordinance (Cap. 336);
 - (iii) been the Registrar of the District Court or a deputy registrar or assistant registrar of the District Court, appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);
 - (iv) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);

- (v) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);
- (vi) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);
- (vii) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);
- (viii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
- (ix) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
- (x) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or

(xi) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(5) For the purposes of calculating the period of 5 years referred to in subsections (1)(b), (2)(b), (3)(b) and (4)(b) -

- (a) periods of less than 5 years falling within any of the subparagraphs of subsection (1)(b), (2)(b), (3)(b) or (4)(b), as the case may be, may be combined;
- (b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance.

37AB. Appointment of temporary registrar

(1) The Chief Justice may appoint a person who is eligible under section 37AA(1) to be appointed as the Registrar to be a temporary registrar if -

(a) the office of the Registrar becomes vacant for any reason; or

(b) he considers that the interest of the administration of justice requires that a temporary registrar should be appointed.

(2) Without prejudice to the generality of the power conferred on him by subsection (1), the Chief Justice may appoint a temporary registrar for a specified period only.

(3) The Chief Justice may terminate the appointment of a temporary registrar at any time.

(4) In this section and section 40A, "temporary registrar" (暫委司法常務官) means a person appointed under subsection (1) to be a temporary registrar.

37AC. Appointment of temporary senior deputy registrars

(1) The Chief Justice may appoint a person who is eligible under section 37AA(2) to be appointed as a senior deputy registrar to be a temporary senior deputy registrar if -

- (a) the office of any senior deputy registrar becomes vacant for any reason; or
- (b) he considers that the interest of the administration of justice requires that a temporary senior deputy registrar should be appointed.

(2) Without prejudice to the generality of the power conferred on him by subsection (1), the Chief Justice may appoint a temporary senior deputy registrar for a specified period only.

(3) The Chief Justice may terminate the appointment of a temporary senior deputy registrar at any time.

(4) A temporary senior deputy registrar may be called Master.

(5) In this section and section 40A, "temporary senior deputy registrar" (暫委高級副司法常務官) means a person appointed under subsection (1) to be a temporary senior deputy registrar."

127. Appointment of temporary deputy registrars

Section 37A(1) is amended by adding "who is eligible under section 37AA(3) to be appointed as a deputy registrar" after "a person".

128. Appointment of temporary assistant registrars

Section 37B(1) is amended by adding "who is eligible under section 37AA(4) to be appointed as an assistant registrar" after "a person".

129. Powers of temporary registrar, etc. in case which is part-heard on termination of appointment

Section 40A is amended -

- (a) in subsection (1), by repealing "temporary deputy registrar" wherever it appears and substituting "temporary registrar";
- (b) in subsection (2), by repealing "apply to a temporary assistant registrar as it applies to a temporary deputy registrar" and substituting "apply to a temporary senior deputy registrar, temporary deputy registrar or temporary assistant registrar as it applies to a temporary registrar".

Lands Tribunal Ordinance

130. Section substituted

Section 4 of the Lands Tribunal Ordinance (Cap. 17) is repealed and the following substituted -

"4. Constitution of Tribunal

(1) The Tribunal shall consist of the following members -

- (a) the President, who shall be one of the Judges of the High Court and shall be appointed by the Chief Executive;
- (b) the presiding officers referred to in subsection (2);
- (c) such members as may be appointed by the Chief Executive and who are eligible under subsection (3) or (4) for appointment; and
- (d) the temporary members.

(2) Every District Judge and deputy District Judge shall by virtue of his office be a presiding officer.

(3) A person shall be eligible to be appointed under subsection (1)(c) as a member of the Tribunal if -

- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
- (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years -

- (i) practised as a barrister, solicitor or advocate in such a court;
- (ii) been the registrar or a deputy registrar or assistant registrar of the District Court appointed in accordance with section 14 of the District Court Ordinance (Cap. 336);
- (iii) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);
- (iv) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);
- (v) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);
- (vi) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);
- (vii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);

- (viii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
- (ix) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (x) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(4) Notwithstanding subsection (3), a person shall also be eligible to be appointed under subsection (1)(c) as a member of the Tribunal if he is a Corporate Member in the General Practice Division of The Hong Kong Institute of Surveyors incorporated by The Hong Kong Institute of Surveyors Ordinance (Cap. 1148), or a holder of an equivalent professional qualification, with at least 5 years' experience in the practice of land valuation.

(5) For the purposes of calculating the period of 5 years referred to in subsection (3)(b) -

(a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;

(b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance."

**131. Appointment and powers
of temporary members**

Section 6A(1) is repealed and the following substituted -

"(1) The Chief Justice may appoint a person who is eligible under section 4(3) or (4) to be appointed as a member of the Tribunal under section 4(1)(c) to be a temporary member of the Tribunal for such period and on such terms as he may think fit."

Labour Tribunal Ordinance

132. Section added

The Labour Tribunal Ordinance (Cap. 25) is amended by adding -

"4A. Professional qualifications of presiding officers

(1) A person shall be eligible to be appointed as a presiding officer if -

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years -

- (i) practised as a barrister, solicitor or advocate in such a court;
- (ii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
- (iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
- (iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2) For the purposes of calculating the period of 5 years referred to in subsection (1)(b) -

(a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;

(b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance.".

133. Appointment of deputy presiding officers

Section 5A(1) is amended by adding "who is eligible under section 4A to be appointed as a presiding officer" after "any person".

Magistrates Ordinance

134. Sections added

The Magistrates Ordinance (Cap. 227) is amended by adding immediately after section 5 -

"5AA. Professional qualifications of permanent magistrates

(1) A person shall be eligible to be appointed as a permanent magistrate if -

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years -

- (i) practised as a barrister, solicitor or advocate in such a court;
- (ii) been a legal officer;
- (iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
- (iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section

75 of the Bankruptcy Ordinance (Cap. 6); or

- (v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2) Notwithstanding subsection (1), a person shall also be eligible to be appointed as a permanent magistrate if -

- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
- (b) whether before or since becoming so qualified, he has for a period of or periods totalling not less than 5 years been a special magistrate appointed in accordance with section 5.

(3) For the purposes of calculating the period of 5 years referred to in subsection (1)(b) -

(a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;

(b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance.

**5AB. Professional qualifications
of special magistrates**

(1) A person shall be eligible to be appointed as a special magistrate if -

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years -

- (i) practised as a barrister, solicitor or advocate in such a court;
- (ii) been a legal officer;
- (iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
- (iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2) Notwithstanding subsection (1), a person shall also be eligible to be appointed as a special magistrate if -

- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
- (b) whether before or since becoming so qualified, he has for a period of or periods totalling not less than 5 years served in the grade of Court Prosecutor, Court Interpreter or Judicial Clerk in the Government.

(3) For the purposes of calculating the period of 5 years referred to in subsection (1)(b) -

- (a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;
- (b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance."

135. Appointment of deputy magistrates

Section 5A(1) is amended by adding "who is eligible under section 5AA to be appointed as a permanent magistrate or under section 5AB to be appointed as a special magistrate" after "any person".

District Court Ordinance

136. Professional qualifications of District Judges

Section 5 of the District Court Ordinance (Cap. 336) is amended -

(a) in subsection (1) -

(i) in paragraph (a), by repealing "as an advocate or as a solicitor" and substituting "as a barrister, solicitor or advocate";

(ii) in paragraph (b) -

(A) in subparagraph (i), by repealing "as an advocate or solicitor" and substituting "as a barrister, solicitor or advocate";

(B) by adding -

"(ia) been the Registrar of the High Court or a senior deputy registrar, deputy registrar or assistant registrar of the High Court, appointed in accordance with section 37 of the High Court Ordinance (Cap. 4); or

(ib) been the Registrar or a deputy registrar or assistant registrar appointed in accordance with section 14; or";

(C) in subparagraph (v), by repealing "by warrant under" and substituting "in accordance with";

(D) by adding -

"(va) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504); or

(vb) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338); or

- (vc) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25); or";
- (E) in subparagraph (viii), by repealing "a Director, Deputy Director, Assistant Director of Legal Aid or Legal Aid Officer" and substituting "the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer,";
- (F) in subparagraph (ix), by repealing "an Official Receiver," and substituting "the Official Receiver or an";
- (G) in subparagraph (x), by repealing "a Director, Deputy Director or Assistant Director of Intellectual Property or a Senior Solicitor," and substituting "the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor,";

- (b) in subsection (3), by repealing "in the repealed Registrar General (Establishment) Ordinance (Cap. 100) appointment to which was restricted to legally qualified persons" and substituting "in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100)".

137. Appointment of deputy District Judges

Section 7 is amended -

- (a) in subsection (1) -
 - (i) by repealing ", who is eligible to be appointed to be a judge," and substituting "who is eligible under section 5 to be appointed as a District Judge";
 - (ii) in paragraph (a), by repealing "any judge" and substituting "any District Judge";
- (b) in subsection (2), by repealing "a judge" and substituting "a District Judge".

138. Officers of the Court

Section 14(4) is amended by adding "temporary registrar, senior deputy registrar, temporary senior deputy registrar," before "deputy registrar, temporary deputy registrar," where it twice appears.

139. Sections added

The following are added immediately after section 14 -

"14AA. Professional qualifications of Registrar, deputy registrars and assistant registrars

(1) A person shall be eligible to be appointed as the Registrar, a deputy registrar or an assistant registrar if -

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified he has for a period of or periods totalling not less than 5 years -

- (i) practised as a barrister, solicitor or advocate in such a court;
- (ii) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap. 227);
- (iii) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap. 504);
- (iv) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap. 338);

- (v) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap. 25);
- (vi) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
- (vii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
- (viii) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (ix) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual

Property (Establishment) Ordinance

(Cap. 412).

(2) For the purposes of calculating the period of 5 years referred to in subsection (1)(b) -

(a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;

(b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance.

14AB. Appointment of temporary registrar

(1) The Chief Justice may appoint a person who is eligible under section 14AA to be appointed as the Registrar to be a temporary registrar if -

(a) the office of the Registrar becomes vacant for any reason; or

(b) he considers that the interest of the administration of justice requires that a temporary registrar should be appointed.

(2) Without prejudice to the generality of the power conferred on him by subsection (1), the Chief Justice may appoint a temporary registrar for a specified period only.

(3) The Chief Justice may terminate the appointment of a temporary registrar at any time.

(4) In this section and section 14C, "temporary registrar" (暫委司法常務官) means a person appointed under subsection (1) to be a temporary registrar."

140. Appointment of temporary deputy registrars

Section 14A(1) is amended by adding "who is eligible under section 14AA to be appointed as a deputy registrar" after "a person".

141. Appointment of temporary assistant registrars

Section 14B(1) is amended by adding "who is eligible under section 14AA to be appointed as an assistant registrar" after "a person".

142. Powers of temporary registrar, etc. in case which is part-heard on termination of appointment

Section 14C is amended -

- (a) in subsection (1), by repealing "temporary deputy registrar" wherever it appears and substituting "temporary registrar";
- (b) in subsection (2), by repealing "apply to a temporary assistant registrar as it applies to a temporary deputy registrar" and substituting "apply to a temporary deputy registrar or temporary

assistant registrar as it applies to a temporary registrar".

Small Claims Tribunal Ordinance

143. Appointment of adjudicators

Section 4(2) of the Small Claims Tribunal Ordinance (Cap. 338) is repealed.

144. Section added

The following is added immediately after section 4 -

"4AA. Professional qualifications of adjudicators

(1) A person shall be eligible to be appointed as an adjudicator if -

(a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and

(b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years -

- (i) practised as a barrister, solicitor or advocate in such a court;
- (ii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);
- (iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
- (iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2) For the purposes of calculating the period of 5 years referred to in subsection (1)(b) -

(a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;

(b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance."

145. Appointment and powers of deputy adjudicators

Section 4A(1) is amended by repealing "qualified under section 4(2)," and substituting "eligible under section 4AA to be appointed as an adjudicator".

Hong Kong Court of Final Appeal Ordinance

146. Chief Justice

Section 6(3) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is amended by adding "permanent judge, a" before "Justice of Appeal" where it twice appears.

147. Professional qualifications of judges

Section 12 is amended -

(a) in subsection (1) -

(i) by repealing "or as a permanent judge";

(ii) by adding before paragraph (a) -

"(aa) a permanent judge;"

(b) by adding -

"(1A) A person shall be eligible to be appointed as a permanent judge if he is -

(a) the Chief Judge of the High Court, a Justice of Appeal or a judge of the Court of First Instance; or

(b) a barrister who has practised as a barrister or solicitor in Hong Kong for a period of at least 10 years.";

(c) by repealing subsection (2);

(d) in subsection (5), by repealing "subsections (2) and (3)" and substituting "subsection (3)".

148. Tenure of office

Section 14(2) is amended -

- (a) in paragraph (a), by repealing "paragraphs (b) and (c)" and substituting "paragraph (b)";
- (b) in paragraph (b) -
 - (i) by repealing "subject to paragraph (c)";
 - (ii) by repealing the semicolon and substituting a full stop;
- (c) by repealing paragraph (c).

149. The Registrar

Section 42 is amended -

- (a) in subsection (2), by adding "under section 37AA(1) of the High Court Ordinance (Cap. 4)" after "required";
- (b) in subsection (5), by repealing "a person to act in his place" and substituting "a person who possesses the same qualifications as are required under section 37AA(1) of the High Court Ordinance (Cap. 4) for appointment as the Registrar of the High Court to act in the place of the Registrar".

Coroners Ordinance

150. Appointment of coroners

Section 3 of the Coroners Ordinance (Cap. 504) is amended -

- (a) in subsection (1), by repealing "Subject to subsection (2), the" and substituting "The";
- (b) by repealing subsection (2).

151. Section added

The following is added immediately after section 3 -

**"3AA. Professional qualifications
of coroners**

(1) A person shall be eligible to be appointed as a coroner if -

- (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
- (b) since becoming so qualified, he has for a period of or periods totalling not less than 5 years -

- (i) practised as a barrister, solicitor or advocate in such a court;
- (ii) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap. 87);

- (iii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap. 91);
- (iv) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap. 6); or
- (v) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412).

(2) For the purposes of calculating the period of 5 years referred to in subsection (1)(b) -

- (a) periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;

(b) periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap. 100) may be taken into account notwithstanding the repeal of that Ordinance."

152. Appointment of deputy coroners

Section 3A(1) is amended by repealing "who meets the requirement in section 3(2)" and substituting "who is eligible under section 3AA to be appointed as a coroner".

Saving Provisions

153. Saving provisions

For the avoidance of doubt -

(a) the amendments made by section 134 to the Magistrates Ordinance (Cap. 227) shall not affect the appointment of any person who has been appointed as a permanent magistrate or a special magistrate under section 5 of that Ordinance and who holds that office immediately before the date of commencement of section 134; and

- (b) where the person referred to in paragraph (a) is appointed for a specified term, the specified term may be renewed, extended, further renewed or further extended as if section 134 had not been enacted.

Consequential Amendments

Interpretation and General Clauses Ordinance

154. Interpretation of words and expressions

Section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) is amended, in the definition of "Registrar of the High Court", by repealing "Deputy or Assistant Registrar" and substituting "Senior Deputy Registrar, Deputy Registrar or Assistant Registrar".

Jury Ordinance

155. Exemptions from service

Section 5 of the Jury Ordinance (Cap. 3) is amended -

- (a) in subsection (1)(b)(i), by adding "Senior Deputy Registrar," before "Deputy Registrar";

(b) in subsection (2), by adding -

"(aa) "Senior Deputy Registrar" (高級副司法常務官)
means Senior Deputy Registrar of the High
Court;".

High Court Ordinance

156. Interpretation

Section 2 of the High Court Ordinance (Cap. 4) is amended, in the definition of "Master", by adding "37AC," after "sections 37,".

The Rules of the High Court

157. Definitions

Order 1, rule 4(1) of the Rules of the High Court (Cap. 4 sub. leg. A) is amended -

- (a) in the definition of "master", by repealing "the Registrar, and Deputy and Assistant Registrars" and substituting "the Registrar of the High Court and a Senior Deputy Registrar, Deputy Registrar or Assistant Registrar of the High Court";
- (b) in the definition of "Registrar", by repealing "a Deputy Registrar or an Assistant Registrar" and substituting "a Senior Deputy Registrar, Deputy Registrar or Assistant Registrar of the High Court".

158. Interpretation

Order 62, rule 1(1) is amended, in the definition of "contentious business", by repealing "as a solicitor or advocate" and substituting "as a barrister, solicitor or advocate".

Bankruptcy Ordinance

159. Interpretation

Section 2 of the Bankruptcy Ordinance (Cap. 6) is amended, in the definition of "Registrar", by repealing "Deputy or Assistant Registrar" and substituting "Senior Deputy Registrar, Deputy Registrar or Assistant Registrar".

160. Jurisdiction of Registrar

Section 99A(7) is amended, in the definition of "Registrar", by adding -

"(aa) any Senior Deputy Registrar of the High Court;".

Bankruptcy Rules**161. Interpretation**

Rule 2 of the Bankruptcy Rules (Cap. 6 sub. leg. A) is amended, in the definition of "Registrar", by repealing "the Deputy or Assistant Registrar" and substituting "any Senior Deputy Registrar, Deputy Registrar or Assistant Registrar".

Probate and Administration Ordinance**162. Interpretation**

Section 2 of the Probate and Administration Ordinance (Cap. 10) is amended, in the definition of "Registrar", by repealing "Deputy or Assistant Registrar" and substituting "Senior Deputy Registrar, Deputy Registrar or Assistant Registrar".

163. Registrar to be Official Administrator

Section 9(5) is amended -

- (a) by repealing "include Deputy or Assistant Registrar" and substituting "include a Senior Deputy Registrar, Deputy Registrar or Assistant Registrar of the High Court";
- (b) by repealing "a Deputy or Assistant Registrar" and substituting "a Senior Deputy Registrar, Deputy Registrar or Assistant Registrar of the High Court".

Companies Ordinance

164. Jurisdiction of Registrar

Section 222A(7) of the Companies Ordinance (Cap. 32) is amended, in the definition of "Registrar", by adding -

"(aa) any Senior Deputy Registrar of the High Court;".

Companies (Winding-up) Rules

165. Interpretation of terms

Rule 2 of the Companies (Winding-up) Rules (Cap. 32 sub. leg. H) is amended, in the definition of "Registrar" -

- (a) by repealing "the court" and substituting "the High Court";
- (b) by repealing "a deputy registrar or an assistant registrar" and substituting "a senior deputy registrar, deputy registrar or assistant registrar of the High Court".

Companies (Disqualification of Directors) Proceedings Rules

166. Interpretation

Rule 1 of the Companies (Disqualification of Directors) Proceedings Rules (Cap. 32 sub. leg. K) is amended, in the definition of "Registrar" -

- (a) by repealing "the court" and substituting "the High Court";
- (b) by repealing "a deputy registrar or an assistant registrar" and substituting "a senior deputy registrar, deputy registrar or assistant registrar of the High Court".

Legal Practitioners Ordinance

167. Interpretation

Section 2(1) of the Legal Practitioners Ordinance (Cap. 159) is amended, in the definition of "Registrar", by adding "senior deputy registrar," before "deputy registrar".

168. Costs Committee

Section 74(1)(b) is amended by repealing "Registrar or a deputy registrar" and substituting "Registrar of the High Court or a senior deputy registrar or deputy registrar".

Maintenance Orders (Reciprocal Enforcement) Ordinance

169. Interpretation

Section 2(1) of the Maintenance Orders (Reciprocal Enforcement) Ordinance (Cap. 188) is amended, in paragraph (a) of the definition of "Registrar", by adding "a Senior Deputy Registrar," before "a Deputy Registrar".

Criminal Procedure Ordinance

170. Interpretation

Section 2 of the Criminal Procedure Ordinance (Cap. 221) is amended, in the definition of "Registrar", by repealing "the court" and substituting "the High Court".

171. Rules and orders as to practice and procedure

Section 9(1)(h) is amended by repealing "a Deputy Registrar" and substituting "a Senior Deputy Registrar or Deputy Registrar of the High Court".

The Rules of the District Court

172. Interpretation

Order 62, rule 1(1) of the Rules of the District Court (Cap. 336 sub. leg. H) is amended, in the definition of "contentious business", by repealing "as a solicitor or advocate" and substituting "as a barrister, solicitor or advocate".

Partition Ordinance

173. Memorandum for stay of proceedings

Section 3B(6) of the Partition Ordinance (Cap. 352) is amended, in the definition of "Registrar", by repealing "a deputy or assistant registrar" and substituting "a senior deputy registrar, deputy registrar or assistant registrar of the High Court".

Pension Benefits (Judicial Officers) Ordinance

174. Normal retirement age

Section 6(1) of the Pension Benefits (Judicial Officers) Ordinance (Cap. 401) is amended -

- (a) in paragraph (a), by repealing "or (c)";
- (b) in paragraph (b), by repealing "a Registrar or Deputy Registrar" and substituting "the Registrar of the High Court or a Senior Deputy Registrar or Deputy Registrar".

Occupational Retirement Schemes Ordinance

175. Exercise of the powers of the court

Section 59 of the Occupational Retirement Schemes Ordinance (Cap. 426) is amended -

(a) by adding -

"(aa) any Senior Deputy Registrar of the High Court;"

(b) in paragraph (b), by repealing "the Deputy Registrar" and substituting "any Deputy Registrar".

PART 5

AMENDMENTS RELATING TO LEGAL EDUCATION
AND LEGAL PRACTITIONERS

**Division 1 - To include representatives of The
Chinese University of Hong Kong in the
Standing Committee on Legal
Education and Training**

Legal Practitioners Ordinance

**176. Standing Committee on Legal
Education and Training**

Section 74A(3) of the Legal Practitioners Ordinance (Cap.

159) is amended -

(a) in paragraph (a) -

(i) by repealing "15 members" and
substituting "17 members";

(ii) by adding -

"(viia) 2 shall be persons nominated
by the Vice-Chancellor of The
Chinese University of Hong
Kong;" ;

(b) in paragraph (b), by repealing "(vii)" and
substituting "(viia)".

**Division 2 - To clarify the power of the Council
of The Law Society of Hong Kong to make
rules for solicitors**

Legal Practitioners Ordinance

177. Power of the Council to make rules

Section 73 of the Legal Practitioners Ordinance (Cap. 159) is
amended by adding -

"(2A) For the avoidance of doubt, it is declared that in
subsection (1)(a)(i), "professional practice" (專業執業), in
relation to a solicitor, means acting as a solicitor or the
business of acting as a solicitor, whether as a partner, sole
practitioner, assistant solicitor or consultant in a Hong
Kong firm or as an employee of a non-solicitor employer."

178. Indemnity rules

Section 73A is amended by adding -

"(8) For the avoidance of doubt, it is declared that in subsection (1)(a) and (b), "practice" (執業業務), in relation to a solicitor, means acting as a solicitor or the business of acting as a solicitor, whether as a partner, sole practitioner, assistant solicitor or consultant in a Hong Kong firm or as an employee of a non-solicitor employer."

PART 6

MINOR AMENDMENTS

**Division 1 - To remove the references to certain
amending provisions that are
no longer necessary**

**Securities (Margin Financing)(Amendment)
Ordinance 2000**

**179. Consequential amendment
of other Ordinances**

Schedule 3 to the Securities (Margin Financing)(Amendment) Ordinance 2000 (20 of 2000) is amended by repealing item 4.

Securities (Amendment) Ordinance 2000

180. Regulations

Section 5 of the Securities (Amendment) Ordinance 2000 (30 of 2000) is repealed.

**Intellectual Property (Miscellaneous
Amendments) Ordinance 2001**

**181. "official journal" substituted
for "Gazette"**

Section 19 of the Intellectual Property (Miscellaneous
Amendments) Ordinance 2001 (2 of 2001) is amended by repealing
", 88(1)(c)(iii) and 93(2)" and substituting "and 88(1)(c)(iii)".

**182. "official journal" substituted
for "Gazette"**

Section 27(1) is amended -

- (a) by repealing "37(2)(b),";
- (b) by repealing ", 60(3)".

Securities and Futures Ordinance

**183. Savings, transitional, consequential and
related provisions, etc.**

Schedule 10 to the Securities and Futures Ordinance (5 of
2002) is amended, in Part 2, by repealing item 16(d).

**Division 2 - To achieve internal consistency
in terminology and consistency between
the Chinese and English texts
of certain Ordinances**

Landlord and Tenant (Consolidation) Ordinance

184. Fraudulent removal of property by tenant

Section 111 of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) is amended by repealing "簡易程序" and substituting "公訴程序".

Import and Export Ordinance

**185. Restriction on carriage, etc.
of prescribed articles in
Hong Kong waters**

The Import and Export Ordinance (Cap. 60) is amended, in the Chinese text, by repealing section 6E(4) and substituting -

"(4) 任何人如無合法辯解，不得在香港水域內，使用船隻拖動並非在另一船隻上的訂明物品。".

Pensions Ordinance

**186. Pension or allowance may be
suspended on certain post-
retirement employment**

Section 16(1) and (2) of the Pensions Ordinance (Cap. 89) is amended by repealing "for the Civil Service".

Pensions Regulations

187. Additional pension in respect of war service

Regulation 17A(2)(a)(ii) of the Pensions Regulations (Cap. 89 sub. leg. A) is amended by repealing "for the Civil Service".

Immigration (Refugee Status Review Boards)(Procedure) Regulations

188. The representative of the applicant

Regulation 6(2) of the Immigration (Refugee Status Review Boards)(Procedure) Regulations (Cap. 115 sub. leg. L) is amended -

(a) by repealing "執業律師(該律師為有權在香港執業的律師)" and substituting "有權在香港執業的法律執業者";

(b) by repealing "的律師" and substituting "法律執業者".

Summary Offences Ordinance

189. Nuisances committed in public places, etc.

Section 4(28) of the Summary Offences Ordinance (Cap. 228) is amended by repealing "直接或因而" and substituting "因而可直接造成或可".

**International Organizations (Privileges
and Immunities) Ordinance**

190. Application of national laws

Section 5(2) of the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) is amended -

- (a) in paragraph (b), by repealing "互相矛盾或抵觸";
- (b) by adding "互相矛盾或抵觸，" before "則該條文".

Securities and Futures Ordinance

191. Rules by Commission

Section 100(2)(b) of the Securities and Futures Ordinance (Cap. 571) is amended by repealing "就與該服務" and substituting "就使用與提供該服務".

**192. Circumstances in which duty
of disclosure arises**

Section 313(7)(b)(i) is amended by adding "對上一次" after "於".

**193. Notification of family and
corporate interests and
short positions by
director and chief
executive**

Section 344(5) is amended -

- (a) in paragraph (b), by adding "(不論是否受任何條件規限)" after "義務";

(b) by repealing "(視屬何情況而定)".

194. Notification to be given by director and chief executive

Section 347(2) is amended by repealing "的方式".

195. Interpretation and general provisions

Schedule 1 is amended, in Part 3, in item 12, by repealing "自動報價協會" and substituting "協會——自動報價系統".

196. Exchange companies, clearing houses and exchange controllers

Schedule 3 is amended, in Part 6, in section 3(7) -

(a) by repealing "不論該款" and substituting "即使該款";

(b) by repealing "是否".

Division 3 - To replace the English title of the Shipping and Port Control Regulations in an Ordinance with its Chinese title

Merchant Shipping (Seafarers) Ordinance

197. Interpretation

Section 2(1) of the Merchant Shipping (Seafarers) Ordinance (Cap. 478) is amended, in the definition of "出港證", by repealing "《Shipping and Port Control Regulations》" and substituting "《船舶及港口管制規例》".

**Division 4 - To rectify errors in the references in
certain provisions to other provisions**

Firearms and Ammunition Ordinance

**198. Carrying arms or ammunition
or imitation firearm with
criminal intent**

Section 18(5) of the Firearms and Ammunition Ordinance (Cap. 238) is amended by repealing "subsection (3)" and substituting "subsection (4)".

**Air Transport (Licensing of Air
Services) Regulations**

199. Public and private inquiries

Regulation 9 of the Air Transport (Licensing of Air Services) Regulations (Cap. 448 sub. leg. A) is amended -

- (a) by repealing "Form 4" where it first appears and substituting "Form 3";
- (b) by repealing "the said".

200. Forms

The Schedule is amended, in Form 3, by repealing "[reg. 8]" and substituting "[regs. 8 & 9]".

**Division 5 - To update the references in
certain Ordinances to the title of
a set of regulations made under
the Dangerous Goods Ordinance**

Pilotage Ordinance

201. Ships subject to compulsory pilotage

Schedule 1 to the Pilotage Ordinance (Cap. 84) is amended, in item 3, by repealing "Dangerous Goods (Classification) Regulations (Cap. 295 sub. leg.)" and substituting "Dangerous Goods (Application and Exemption) Regulations (Cap. 295 sub. leg. A)".

Eastern Harbour Crossing Road Tunnel By-laws

202. Vehicles prohibited

By-law 17(1)(r), (s), (t), (u) and (v) of the Eastern Harbour Crossing Road Tunnel By-laws (Cap. 215 sub. leg. E) is amended by repealing "Dangerous Goods (Classification) Regulations (Cap. 295 sub. leg.)" and substituting "Dangerous Goods (Application and Exemption) Regulations (Cap. 295 sub. leg. A)".

203. Vehicles conveying dangerous goods

By-law 19(3)(a) is amended by repealing "Dangerous Goods (Classification) Regulations (Cap. 295 sub. leg.)" and substituting "Dangerous Goods (Application and Exemption) Regulations (Cap. 295 sub. leg. A)".

**Radiation (Control of Radioactive
Substances) Regulations**

**204. Conveyance of radioactive substances
on vehicles or vessels**

Regulation 7(7) of the Radiation (Control of Radioactive Substances) Regulations (Cap. 303 sub. leg. A) is amended by repealing "Dangerous Goods (Classification) Regulations (Cap. 295 sub. leg.)" and substituting "Dangerous Goods (Application and Exemption) Regulations (Cap. 295 sub. leg. A)".

Road Tunnels (Government) Regulations

**205. Prohibition against vehicles
conveying dangerous goods**

Regulation 11(1)(a), (b), (c), (d) and (e) of the Road Tunnels (Government) Regulations (Cap. 368 sub. leg. A) is amended by repealing "Dangerous Goods (Classification) Regulations (Cap. 295 sub. leg., 1983 R. Ed.)" and substituting "Dangerous Goods (Application and Exemption) Regulations (Cap. 295 sub. leg. A)".

Electricity (Wiring) Regulations

**206. Periodic inspection, testing
and certification**

Regulation 20(1)(b) of the Electricity (Wiring) Regulations (Cap. 406 sub. leg. E) is amended by repealing "Dangerous Goods (Classification) Regulations (Cap. 295 sub. leg.)" and

substituting "Dangerous Goods (Application and Exemption) Regulations (Cap. 295 sub. leg. A)".

**Division 6 - To update the references
in certain Ordinances to the title of
a notice given for the purposes
of the Prevention of
Bribery Ordinance**

Fire Services Ordinance

207. What the Fund consists of

Section 19B(h) of the Fire Services Ordinance (Cap. 95) is amended by repealing "Acceptance of Advantages (Governor's Permission) Notice 1992" and substituting "Acceptance of Advantages (Chief Executive's Permission) Notice 2004".

Police Force Ordinance

**208. What the Police Welfare Fund
consists of**

Section 39C(i) of the Police Force Ordinance (Cap. 232) is amended by repealing "Acceptance of Advantages (Governor's Permission) Notice 1992" and substituting "Acceptance of Advantages (Chief Executive's Permission) Notice 2004".

Prisons Ordinance

209. What the Fund consists of

Section 24F(g) of the Prisons Ordinance (Cap. 234) is amended by repealing "Acceptance of Advantages (Governor's Permission) Notice 1992" and substituting "Acceptance of Advantages (Chief Executive's Permission) Notice 2004".

Government Flying Service Ordinance

210. Establishment of the fund

Section 15(c) of the Government Flying Service Ordinance (Cap. 322) is amended by repealing "Acceptance of Advantages (Governor's Permission) Notice 1981" and substituting "Acceptance of Advantages (Chief Executive's Permission) Notice 2004".

Immigration Service Ordinance

211. What the Fund consists of

Section 16B(f) of the Immigration Service Ordinance (Cap. 331) is amended by repealing "Acceptance of Advantages (Governor's Permission) Notice 1992" and substituting "Acceptance of Advantages (Chief Executive's Permission) Notice 2004".

Customs and Excise Service Ordinance

212. What the Fund consists of

Section 19B(h) of the Customs and Excise Service Ordinance (Cap. 342) is amended by repealing "Acceptance of Advantages (Governor's Permission) Notice 1992" and substituting "Acceptance of Advantages (Chief Executive's Permission) Notice 2004".

**Division 7 - To update the references in
certain Ordinances to the title of a
regulation made under the Customs
and Excise Service Ordinance**

Specification of Public Offices

213. Schedule amended

The Schedule to the Specification of Public Offices (Cap. 1 sub. leg. C) is amended, in the entry relating to "Financial Secretary", by repealing "Customs and Excise Service (Welfare Fund) Regulations (Chapter 342 subsidiary legislation), regulation 8" and substituting "Customs and Excise Service (Welfare Fund) Regulation (Chapter 342 subsidiary legislation C), section 8".

Customs and Excise Service Ordinance

214. Amendment of references to Preventive Service in Ordinances and documents

Section 25 of the Customs and Excise Service Ordinance (Cap. 342) is amended by repealing "Customs and Excise Service (Welfare Fund) Regulations (Cap. 342 sub. leg.)" and substituting "Customs and Excise Service (Welfare Fund) Regulation (Cap. 342 sub. leg. C)".

Division 8 - To provide for consequential amendments that were omitted in previous amendment exercises

Labour Tribunal Ordinance

215. Interest on claims and awards

Section 39(4) of the Labour Tribunal Ordinance (Cap. 25) is amended by repealing "the rate fixed by the Chief Justice by notice in the Gazette" and substituting "the rate from time to time applicable to judgment debts".

Companies Ordinance

216. Submission of certified copies

Section 39C(b)(ii) of the Companies Ordinance (Cap. 32) is amended by repealing "professional accountant" and substituting "certified public accountant".

217. Submission of certified copies

Section 342CC(b)(iv) is amended by repealing "professional accountant" and substituting "certified public accountant".

Companies (Amendment) Ordinance 2004

218. Amendments to the Companies Ordinance relating to oversea companies and incorporation procedures

Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004) is amended -

(a) in section 28, in the new section 333(5)(c), by repealing "professional accountants" and substituting "certified public accountants (practising)";

(b) in section 44, by repealing the new section 341(2)(b) and substituting -

"(b) the expression "certified public accountant (practising)" (執業會計師) has the meaning assigned to it by the Professional Accountants Ordinance (Cap. 50);".

219. Consequential and other amendments

Schedule 4 is amended, in Part 2 -

- (a) in section 2, in the new paragraph 3(2)(b)(iii), by repealing "professional accountant practising in Hong Kong" and substituting "certified public accountant (practising) within the meaning of section 2 of the Professional Accountants Ordinance (Cap. 50)";
- (b) in section 4, in the new paragraph 6(2)(b)(iii), by repealing "professional accountant practising in Hong Kong" and substituting "certified public accountant (practising) within the meaning of section 2 of the Professional Accountants Ordinance (Cap. 50)".

Frozen Confections Regulation

220. Offences and penalties

Section 41(1)(e) and (f) of the Frozen Confections Regulation (Cap. 132 sub. leg. AC) is amended by repealing "Governor in Council" and substituting "Municipal Services Appeals Board".

Milk Regulation

221. Offences and penalties

Section 40(1)(e) and (f) of the Milk Regulation (Cap. 132 sub. leg. AQ) is amended by repealing "Governor in Council" and substituting "Municipal Services Appeals Board".

Small Claims Tribunal Ordinance

222. Interest on awards

Section 33(4) of the Small Claims Tribunal Ordinance (Cap. 338) is amended by repealing "the rate fixed by the Chief Justice by notice in the Gazette" and substituting "the rate from time to time applicable to judgment debts".

Administrative Appeals Board Ordinance

223. Schedule amended

The Schedule to the Administrative Appeals Board Ordinance (Cap. 442) is amended by adding -

<p>"59. Marine Fish Culture Ordinance (Cap. 353)</p>	<p>A decision of the Director of Agriculture, Fisheries and Conservation -</p> <p>(a) to refuse to grant or renew a licence under section 8(6);</p>
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- (b) to refuse to approve the transfer of a licence under section 8A(3)(b);
- (c) to cancel a licence under section 9(1);
- (d) to refuse to grant a permit under section 14(1);
- (e) to cancel or refuse to renew a permit under section 14(2)."

Legislative Council Ordinance

224. Interpretation: Part VIA

Section 60A(1) of the Legislative Council Ordinance (Cap. 542) is amended, in the definition of "auditor", by repealing "a professional accountant registered and holding a practising certificate under" and substituting "a certified public accountant (practising) as defined in".

Explanatory Memorandum

This Bill contains miscellaneous amendments to various Ordinances.

2. The Bill is divided into 6 Parts.

PART 1

3. Part 1 (clauses 1 and 2) contains preliminary provisions stating the short title and providing for the commencement of the Bill when enacted.

PART 2

4. Part 2 (clauses 3 to 15) contains amendments relating to the transfer of functions and powers.

5. Division 1 of Part 2 amends the following Ordinances to transfer to the Secretary for the Civil Service certain functions of the Chief Secretary for Administration relating to the pensions of public officers -

- the Widows and Orphans Pension Ordinance (Cap. 94) (clause 3); and
- the Pension Benefits Ordinance (Cap. 99) (clause 4).

6. Division 2 of Part 2 amends the Oaths and Declarations Ordinance (Cap. 11) (clause 5) to transfer to the Director of the Chief Executive's Office the function of the Chief Secretary for Administration to administer the Oath of Secrecy to the Clerk and Deputy Clerk to the Executive Council.

7. Division 3 of Part 2 amends the following Ordinances to transfer to the Administrative Appeals Board the function of the Chief Executive in Council to determine appeals under the Medical Clinics Ordinance (Cap. 343) -

- the Medical Clinics Ordinance (Cap. 343) (clause 6); and
- the Administrative Appeals Board Ordinance (Cap. 442) (clause 7).

8. Division 4 of Part 2 amends the following Ordinances to transfer to the Chief Judge from the Chief Justice the chairmanship of the High Court Rules Committee, the Criminal Procedure Rules Committee and the District Court Rules Committee -

- the High Court Ordinance (Cap. 4) (clause 8);
- the Criminal Procedure Ordinance (Cap. 221) (clause 9); and
- the District Court Ordinance (Cap. 336) (clause 10).

9. Division 5 of Part 2 amends the Matrimonial Causes Ordinance (Cap. 179) (clauses 11 to 14) to transfer to the Chief Judge certain rule-making and related powers of the Chief Justice under that Ordinance, and contains saving provisions (clause 15).

PART 3

10. Part 3 (clauses 16 to 121) contains amendments relating to the change of name, the enhancement of operational efficiency and the refinement of statutory provisions.

11. Division 1 of Part 3 amends The Chinese University of Hong Kong Ordinance (Cap. 1109) (clauses 16 to 22) to change the Chinese name of the Convocation of The Chinese University of Hong

Kong from "評議會" to "校友評議會". Division 1 of Part 3 also contains a saving provision (clause 23) and provides for consequential amendments to other Ordinances (clauses 24 to 26).

12. Division 2 of Part 3 amends the Legal Aid Services Council Ordinance (Cap. 489) (clauses 27 to 29) to empower the Legal Aid Services Council to do such things as are necessary to enable it to exercise its functions (including entering into contracts) and to appoint staff, and to extend the time limit within which the Council must submit an annual report to the Chief Executive.

13. Division 3 of Part 3 amends the Trade Marks Ordinance (Cap. 559) (clauses 30 and 31) to clarify when the period of 6 months referred to in section 41(1) of that Ordinance commences, and to elaborate the meaning of the expression "owner" in section 55(2) of that Ordinance. The amendments reflect the original intention of those provisions.

14. Division 4 of Part 3 amends the Theft Ordinance (Cap. 210) (clause 32) to bring the terminology of the definition of "deception" in that Ordinance into line with that of the definition of "deceit" in that Ordinance which carries a similar meaning.

15. Division 5 of Part 3 amends the Crimes Ordinance (Cap. 200) (clause 33) to require consent for the prosecution of conspiracies to commit offences regarding which consent to prosecution is necessary.

16. Division 6 of Part 3 amends the Firearms and Ammunition Ordinance (Cap. 238) (clause 34) to make possession of imitation firearms an indictable offence.

17. Division 7 of Part 3 amends the Prevention of Bribery Ordinance (Cap. 201) (clauses 35 and 36) to prohibit a person who is, by written notice, required under that Ordinance to surrender his travel document to the Commissioner of the Independent Commission Against Corruption from leaving Hong Kong, and to clarify by whom that person may be arrested for failure to comply with the notice.

18. Division 8 of Part 3 amends the Costs in Criminal Cases Ordinance (Cap. 492) (clauses 37 and 38) to empower the Court of Appeal and the Court of First Instance to award costs to the prosecutor or the defendant on the other party's unsuccessful application to the Court of Appeal or the Court of First Instance under the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for a certificate showing that a point of law of great and general importance is involved in the decision of the Court of Appeal or the Court of First Instance or that substantial and grave injustice has been done.

19. Division 9 of Part 3 amends the following Ordinances to repeal provisions providing that the decision of the Court of Appeal on an appeal is final -

- the Professional Accountants Ordinance (Cap. 50) (clause 39);
- the Dentists Registration Ordinance (Cap. 156) (clause 45);

- the Legal Practitioners Ordinance (Cap. 159)
(clauses 49 and 50);
- the Medical Registration Ordinance (Cap. 161)
(clause 52);
- the Midwives Registration Ordinance (Cap. 162)
(clause 57);
- the Nurses Registration Ordinance (Cap. 164)
(clause 62);
- the Supplementary Medical Professions Ordinance
(Cap. 359) (clause 67);
- the Architects Registration Ordinance (Cap. 408)
(clause 71);
- the Engineers Registration Ordinance (Cap. 409)
(clause 77);
- the Surveyors Registration Ordinance (Cap. 417)
(clause 83);
- the Planners Registration Ordinance (Cap. 418)
(clause 89);
- the Land Survey Ordinance (Cap. 473) (clauses 95
and 96);
- the Social Workers Registration Ordinance (Cap.
505) (clause 101);
- the Landscape Architects Registration Ordinance
(Cap. 516) (clause 106);
- the Chinese Medicine Ordinance (Cap. 549) (clause
112); and

- the Housing Managers Registration Ordinance (Cap. 550) (clause 116).

Division 9 of Part 3 also contains related amendments to those Ordinances (clauses 40 to 44, 46 to 48, 51, 53 to 56, 58 to 61, 63 to 66, 68 to 70, 72 to 76, 78 to 82, 84 to 88, 90 to 94, 97 to 100, 102 to 105, 107 to 111, 113 to 115 and 117 to 121).

PART 4

20. Part 4 (clauses 122 to 175) contains amendments relating to judicial officers.

21. Division 1 of Part 4 amends the Judicial Officers Recommendation Commission Ordinance (Cap. 92) (clause 122) to require a member of the Judicial Officers Recommendation Commission who may be selected to fill a vacancy in judicial offices to disclose whether or not, if he were to be selected, he is willing to accept appointment.

22. Division 2 of Part 4 amends the Judicial Officers Recommendation Commission Ordinance (Cap. 92) (clause 123) to update the list of judicial offices in that Ordinance.

23. Division 3 of Part 4 amends the following Ordinances to make provisions or further provisions for the professional qualifications of certain judicial officers -

- the High Court Ordinance (Cap. 4) (clauses 124 to 129);
- the Lands Tribunal Ordinance (Cap. 17) (clauses 130 and 131);

- the Labour Tribunal Ordinance (Cap. 25) (clauses 132 and 133);
- the Magistrates Ordinance (Cap. 227) (clauses 134 and 135);
- the District Court Ordinance (Cap. 336) (clauses 136 to 142);
- the Small Claims Tribunal Ordinance (Cap. 338) (clauses 143 to 145);
- the Hong Kong Court of Final Appeal Ordinance (Cap. 484) (clauses 146 to 149); and
- the Coroners Ordinance (Cap. 504) (clauses 150 to 152).

Division 3 of Part 4 also contains saving provisions (clause 153) and provides for consequential amendments to other Ordinances (clauses 154 to 175).

PART 5

24. Part 5 (clauses 176 to 178) contains amendments relating to legal education and legal practitioners.

25. Division 1 of Part 5 amends the Legal Practitioners Ordinance (Cap. 159) (clause 176) to include 2 representatives of The Chinese University of Hong Kong in the Standing Committee on Legal Education and Training established by that Ordinance.

26. Division 2 of Part 5 amends the Legal Practitioners Ordinance (Cap. 159) (clauses 177 and 178) to clarify that the Council of The Law Society of Hong Kong may make rules to provide for the

professional practice of any solicitor and may make indemnity rules in respect of any solicitor's practice, whether or not the solicitor is engaged in private practice.

PART 6

27. Part 6 (clauses 179 to 224) contains miscellaneous amendments of a minor nature to various Ordinances.

28. Division 1 of Part 6 amends the following Ordinances to remove the references in those Ordinances to certain amending provisions that are no longer necessary -

- the Securities (Margin Financing)(Amendment) Ordinance 2000 (20 of 2000) (clause 179);
- the Securities (Amendment) Ordinance 2000 (30 of 2000) (clause 180);
- the Intellectual Property (Miscellaneous Amendments) Ordinance 2001 (2 of 2001) (clauses 181 and 182); and
- the Securities and Futures Ordinance (5 of 2002) (clause 183).

29. Division 2 of Part 6 amends the following Ordinances to achieve internal consistency in terminology and consistency between the Chinese and English texts of those Ordinances -

- the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (clause 184);
- the Import and Export Ordinance (Cap. 60) (clause 185);

- the Pensions Ordinance (Cap. 89) (clause 186);
- the Pensions Regulations (Cap. 89 sub. leg. A) (clause 187);
- the Immigration (Refugee Status Review Boards) (Procedure) Regulations (Cap. 115 sub. leg. L) (clause 188);
- the Summary Offences Ordinance (Cap. 228) (clause 189);
- the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) (clause 190); and
- the Securities and Futures Ordinance (Cap. 571) (clauses 191 to 196).

30. Division 3 of Part 6 amends the Merchant Shipping (Seafarers) Ordinance (Cap. 478) (clause 197) to replace a reference in that Ordinance to the English title of the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) with its Chinese title.

31. Division 4 of Part 6 amends the following Ordinances to rectify errors in the references in certain provisions to other provisions -

- the Firearms and Ammunition Ordinance (Cap. 238) (clause 198); and
- the Air Transport (Licensing of Air Services) Regulations (Cap. 448 sub. leg. A) (clauses 199 and 200).

32. Division 5 of Part 6 amends the following Ordinances to update the references in those Ordinances to the title of a set of regulations made under the Dangerous Goods Ordinance (Cap. 295),

namely, the Dangerous Goods (Application and Exemption)

Regulations (Cap. 295 sub. leg. A) -

- the Pilotage Ordinance (Cap. 84) (clause 201);
- the Eastern Harbour Crossing Road Tunnel By-laws (Cap. 215 sub. leg. E) (clauses 202 and 203);
- the Radiation (Control of Radioactive Substances) Regulations (Cap. 303 sub. leg. A) (clause 204);
- the Road Tunnels (Government) Regulations (Cap. 368 sub. leg. A) (clause 205); and
- the Electricity (Wiring) Regulations (Cap. 406 sub. leg. E) (clause 206).

33. Division 6 of Part 6 amends the following Ordinances to update the references in those Ordinances to the title of a notice given by the Chief Executive for the purposes of the Prevention of Bribery Ordinance (Cap. 201), namely, the Acceptance of Advantages (Chief Executive's Permission) Notice 2004 (G.N. 252 of 2004) -

- the Fire Services Ordinance (Cap. 95) (clause 207);
- the Police Force Ordinance (Cap. 232) (clause 208);
- the Prisons Ordinance (Cap. 234) (clause 209);
- the Government Flying Service Ordinance (Cap. 322) (clause 210);
- the Immigration Service Ordinance (Cap. 331) (clause 211); and
- the Customs and Excise Service Ordinance (Cap. 342) (clause 212).

34. Division 7 of Part 6 amends the following Ordinances to update the references in those Ordinances to the title of a

regulation made under the Customs and Excise Service Ordinance (Cap. 342), namely, the Customs and Excise Service (Welfare Fund) Regulation (Cap. 342 sub. leg. C) -

- the Specification of Public Offices (Cap. 1 sub. leg. C) (clause 213); and
- the Customs and Excise Service Ordinance (Cap. 342) (clause 214).

35. Division 8 of Part 6 amends the following Ordinances to provide for consequential amendments that were omitted in previous amendment exercises -

- the Labour Tribunal Ordinance (Cap. 25) (clause 215);
- the Companies Ordinance (Cap. 32) (clauses 216 and 217);
- the Companies (Amendment) Ordinance 2004 (30 of 2004) (clauses 218 and 219);
- the Frozen Confections Regulation (Cap. 132 sub. leg. AC) (clause 220);
- the Milk Regulation (Cap. 132 sub. leg. AQ) (clause 221);
- the Small Claims Tribunal Ordinance (Cap. 338) (clause 222);
- the Administrative Appeals Board Ordinance (Cap. 442) (clause 223); and
- the Legislative Council Ordinance (Cap. 542) (clause 224).