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# Administration of Justice (Miscellaneous Provisions) Ordinance 2014

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**HONG KONG SPECIAL ADMINISTRATIVE REGION**

**ORDINANCE NO. 20 OF 2014**



C. Y. LEUNG  
Chief Executive  
23 December 2014

An Ordinance to amend various legislation to make provisions concerning audio-visual facilities in criminal proceedings, permanent magistrates' professional qualifications, the delivery of reasons for verdicts and sentences of criminal cases in the District Court, civil appeals to the Hong Kong Court of Final Appeal as of right, the Labour Tribunal's jurisdiction and powers, and suitors' funds in various courts and tribunals; and to make minor amendments.

[24 December 2014]

Enacted by the Legislative Council.

**Part 1**

**Preliminary**

**1. Short title and commencement**

- (1) This Ordinance may be cited as the Administration of Justice (Miscellaneous Provisions) Ordinance 2014.
- (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.

- (3) Part 7 comes into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

**2. Enactments amended**

The enactments specified in Parts 2 to 7 are amended as set out in those Parts.

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## Part 2

### Amendment to Criminal Procedure Ordinance (Cap. 221)

#### 3. Section 79A amended (interpretation)

Section 79A—

**Repeal the definition of *live television link***

**Substitute**

“*live television link* (電視直播聯繫) means a system—

- (a) in which a courtroom and another room located in the same premises as the courtroom are equipped with, and linked by, audio-visual facilities that are capable of allowing—
  - (i) persons in the courtroom to see and hear persons in the other room; and
  - (ii) persons in the other room to hear, or see and hear, persons in the courtroom; and
- (b) installed for allowing persons in the other room to give evidence in the proceedings taking place in the courtroom,

and includes a similar system linking a room in which a magistrate is taking a deposition in writing under section 79E with another room from which the person gives evidence for the purpose of the deposition;”.

#### 4. Section 79B amended (evidence by live television link)

After section 79B(5)—

**Add**

- “(6) The audio-visual facilities used in a live television link must be approved by the Chief Justice.”.

## Part 3

### Amendments to Magistrates Ordinance (Cap. 227)

**5. Section 5AA amended (professional qualifications of permanent magistrates)**

(1) Section 5AA—

**Repeal subsections (1) and (2)**

**Substitute**

“(1) A person is eligible to be appointed as a permanent magistrate if the person—

- (a) 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) has the required experience as specified in subsection (2).

(2) For subsection (1)(b), a person has the required experience if, for a period of or periods totalling not less than 5 years—

- (a) since becoming qualified as described in subsection (1)(a), the person—
  - (i) has practised as a barrister, solicitor or advocate in such a court;
  - (ii) has been a legal officer;
  - (iii) has 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) has 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) has been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap. 412); or

(b) whether before or since becoming qualified as described in subsection (1)(a), the person has been a special magistrate appointed in accordance with section 5.”.

(2) Section 5AA(3)—

**Repeal**

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

**Substitute**

“In calculating the period of 5 years referred to in subsection (2)”.

(3) Section 5AA(3)(a)—

**Repeal**

“subparagraphs”

**Substitute**

“paragraphs or subparagraphs”.



(4) Section 5AA(3)(b), before “periods”—

**Add**

“for the purposes of paragraph (a) of that subsection,”.

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## Part 4

### Amendment to District Court Ordinance (Cap. 336)

#### 6. Section 80 amended (verdict)

Section 80—

##### **Repeal subsection (2)**

##### **Substitute**

- “(2) The reasons for the verdict must be delivered—
- (a) together with the verdict; and
  - (b) either orally or in writing.
- (3) The reasons for any sentence must be delivered—
- (a) together with the sentence; and
  - (b) orally.
- (4) Reasons delivered orally under subsection (2) or (3) must be reduced to writing within 21 days after the hearing or the trial.
- (5) The reasons reduced to writing must be signed by the judge.
- (6) For reasons delivered in writing under subsection (2) or reasons reduced to writing under subsection (4), the Court must—
- (a) deliver a copy of the reasons to each of the parties;
  - (b) lodge a copy of the reasons in the High Court Library;

- (c) make a copy of the reasons available for public inspection in the Registry of the Court; and
  - (d) make a copy of the reasons available to the public through the Internet.”.
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## Part 5

### Amendments to Hong Kong Court of Final Appeal Ordinance (Cap. 484)

#### 7. Application

This Part applies in relation to a final judgment of the Court of Appeal if the date of the final judgment (whether pronounced orally or delivered in writing) falls on or after the commencement date of this Part.

#### 8. Section 22 amended (civil appeals)

(1) Section 22(1)—  
**Repeal paragraph (a).**

(2) Section 22(1)(b)—  
**Repeal**  
“any other judgment”

**Substitute**  
“any judgment”.

(3) Section 22—  
**Repeal subsection (2).**

#### 9. Section 23 amended (leave to appeal)

Section 23—  
**Repeal subsection (2).**

**10. Section 25 amended (grant of leave to appeal)**

Section 25(1)—

**Repeal**

“or is required”.

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## **Part 6**

### **Amendments Relating to Jurisdiction and Powers of Labour Tribunal**

#### **Division 1—Labour Tribunal Ordinance (Cap. 25)**

**11. Section 12 amended (contents of claims)**

Section 12(c)—

**Repeal**

“money”

**Substitute**

“money (whether liquidated or unliquidated)”.

**12. Section 15 amended (conciliation certificate to be filed)**

Section 15(3)—

**Repeal**

“sections 16 and 30”

**Substitute**

“section 16”.

**13. Section 30 substituted**

Section 30—

**Repeal the section**

**Substitute**

**“30. Security for awards and orders**

- (1) The tribunal may order a party to give security for the payment of an award or order that has been or may be made if the tribunal considers it just and expedient to do so.
- (2) The tribunal may make the order either of its own motion or on the application of a party.
- (3) The order may require security to be given—
  - (a) by payment into the tribunal a sum of money that the tribunal considers sufficient; or
  - (b) in any other form and manner that the tribunal considers appropriate.
- (4) Without limiting subsection (1), the tribunal may make an order under that subsection against a party if—
  - (a) the tribunal is satisfied that there is a real risk that the payment of an award or order that has been or may be made will be obstructed or delayed because—
    - (i) the party has disposed of, removed from Hong Kong or lost control of assets belonging to the party;
    - (ii) the party is about to dispose of, remove from Hong Kong or lose control of assets belonging to the party; or
    - (iii) there is a real risk of the party disposing of, removing from Hong Kong or losing control of assets belonging to the party;
  - (b) the tribunal is satisfied that—
    - (i) the party has conducted the proceedings in a manner that delays the determination of the case; or

- (ii) the party's conduct otherwise constitutes an abuse of the process; or
    - (c) the tribunal is satisfied that the party has, without reasonable excuse, failed to comply with any award, order or direction.
  - (5) If a party fails to comply with an order under subsection (1), the tribunal may—
    - (a) dismiss the party's claim;
    - (b) stay the proceedings; or
    - (c) enter judgment on the claim against the party.
  - (6) On a party's failure to comply with an order under subsection (1), the tribunal may exercise the powers referred to in subsection (5) without further hearing or considering the party's case if the order expressly indicates the tribunal's intention to do so on such non-compliance without further hearing or consideration.”.

**14. Section 31 amended (review of awards and orders)**

Section 31—

**Repeal subsection (4)**

**Substitute**

- “(4) After a party has applied for a review of an award or order, the presiding officer may order the applicant to give security for the payment of any award or order that has been or may be made if the presiding officer considers it just and expedient to do so.
- (4A) The presiding officer may make the order either of the presiding officer's own motion or on the application of a party.
- (4B) The order may require security to be given—
  - (a) by payment into the tribunal a sum of money that the presiding officer considers sufficient; or



- (b) in any other form and manner that the presiding officer considers appropriate.
- (4C) Without limiting subsection (4), the presiding officer may exercise the power under that subsection if the presiding officer is satisfied that—
  - (a) the application for a review of an award or order—
    - (i) is devoid of merit; or
    - (ii) is made to delay the process; or
  - (b) assets that may be available to satisfy an award or order may be disposed of to the prejudice of any party.
- (4D) If a party fails to comply with an order under subsection (4), the presiding officer may dismiss the application for review.
- (4E) On a party’s failure to comply with an order under subsection (4), the presiding officer may dismiss the application for review under subsection (4D) without further hearing or considering the party’s case if the order expressly indicates the presiding officer’s intention to do so on such non-compliance without further hearing or consideration.”.

**15. Section 38 substituted**

Section 38—

**Repeal the section**

**Substitute**

**“38. Awards and orders may be registered in District Court**

- (1) A final award or order of the tribunal may be registered in the District Court in the prescribed manner.

- (2) On registration, the final award or order—
  - (a) becomes for all purposes a judgment of the District Court made on the date on which the final award or order was made by the tribunal; and
  - (b) subject to section 40, may be enforced accordingly.
- (3) The final award or order may be enforced under subsection (2)(b) even though the award or order has been given for an amount that is beyond the jurisdiction of the District Court.”.

**16. Section 48 added**

After section 47—

**Add**

**“48. Proceedings to which amendments made by Administration of Justice (Miscellaneous Provisions) Ordinance 2014 apply**

The amendments made to this Ordinance by the Administration of Justice (Miscellaneous Provisions) Ordinance 2014 (20 of 2014) apply in relation to all proceedings to which this Ordinance relates irrespective of when those proceedings were commenced.”.

**17. Schedule amended**

- (1) The Schedule, paragraph 1—

**Repeal**

“money”

**Substitute**

“money, whether liquidated or unliquidated.”.

- (2) The Schedule, paragraph 3—

**Repeal**



- (2) The Schedule, Forms 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14—

**Repeal**

“day of ..... 19.....” (wherever appearing)

**Substitute**

“day of .....”.

- (3) The Schedule, Form 15A—

**Repeal**

“dated ..... 19.....”

**Substitute**

“dated .....”.

- (4) The Schedule, Form 15A—

**Repeal**

“day of ..... 19.....” (wherever appearing)

**Substitute**

“day of .....”.

- (5) The Schedule, Form 16—

**Repeal**

“day of ..... 19.....” (wherever appearing)

**Substitute**

“day of .....”.

- (6) The Schedule, Form 17—

**Repeal**

“day of ..... 19.....” (wherever appearing)

**Substitute**

“day of .....”.

- (7) The Schedule, Form 17—

**Repeal**

“(c) Dated”

**Substitute**

“Dated”.

- (8) The Schedule, Form 17—

**Repeal Note (c).**

- (9) The Schedule, Forms 18, 19 and 20—

**Repeal**

“day of ..... 19.....” (wherever appearing)

**Substitute**

“day of .....”.

**Division 4—Labour Tribunal (Suitors’ Funds) Rules (Cap. 25 sub. leg. D)**

**20. Rule 4 amended (registrar to give receipt)**

Rule 4(2)(b)—

**Repeal**

“day of 19”

**Substitute**

“day of ”.

**21. Schedule amended**

- (1) The Schedule, Form 1—

**Repeal**

“No. of 19”

**Substitute**

“No. of ”.



## Part 7

### Amendments Relating to Suitors' Funds

#### Division 1—High Court Ordinance (Cap. 4)

22. **Section 20A amended (property which may be charged)**  
Section 20A(4), Chinese text, definition of 證券—
- Repeal**  
“保證物”
- Substitute**  
“證券”.
23. **Section 57 amended (rules concerning deposit, etc. of moneys, etc. in High Court)**
- (1) Section 57, heading—
- Repeal**  
“Rules concerning deposit, etc. of moneys, etc. in High Court”
- Substitute**  
“Suitors' Funds Rules”.
- (2) Section 57(1)(a), (b) and (d), Chinese text—
- Repeal**  
“保證物”
- Substitute**  
“證券”.
- (3) Section 57(2)(e), Chinese text—
- Repeal**  
“保證物”

**Substitute**

“證券”.

- (4) Section 57(2)(f)—

**Repeal**

everything after “disposing of money”

**Substitute**

“remaining unclaimed in court.”.

- (5) Section 57—

**Repeal subsection (3)**

**Substitute**

“(3) In this section—

*securities* (證券) includes shares;

*suitors* (訴訟人) includes any party to arbitral proceedings who makes payment of money into the Court of First Instance in accordance with rules of court.”.

**Division 2—Lands Tribunal Ordinance (Cap. 17)**

**24. Section 10AA added**

After section 10—

**Add**

**“10AA. Suitors’ Funds Rules**

- (1) The Chief Justice may, after consulting the President, make rules for regulating the following matters—
- (a) the deposit, payment, delivery, and transfer in, into, and out of the Tribunal of money, securities and movable property of suitors;



- (b) the evidence of such deposit, payment, delivery, or transfer, and the investment of and other dealings with money, securities and movable property in the Tribunal;
  - (c) the execution of the orders of the Tribunal; and
  - (d) the powers and duties of the registrar with reference to such money, securities and movable property.
- (2) Without limiting subsection (1), rules made under that subsection may provide for—
- (a) regulating the placing on and withdrawal from deposit of money in the Tribunal, and the payment or crediting of interest on money placed on deposit;
  - (b) determining the smallest amount of money on deposit on which interest is to be credited to an account to which money placed on deposit belongs;
  - (c) determining the time at which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
  - (d) determining the cases in which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
  - (e) determining the cases in which interest on money placed on deposit is, and the dividends on any securities standing in the name of the registrar are, to be placed on deposit; and
  - (f) disposing of money remaining unclaimed in the Tribunal.
- (3) In this section—  
*securities* (證券) includes shares.”.

## **Division 3—Labour Tribunal Ordinance (Cap. 25)**

### **25. Section 45 amended (Chief Justice may make rules)**

(1) Section 45—

**Renumber the section as section 45(1).**

(2) After section 45(1)—

**Add**

“(2) Without limiting subsection (1), the Chief Justice may make rules for regulating the following matters—

- (a) the deposit, payment, delivery, and transfer in, into, and out of the tribunal of money and movable property of suitors;
  - (b) the evidence of such deposit, payment, delivery, or transfer, and the investment of and other dealings with money and movable property in the tribunal; and
  - (c) the powers and duties of the registrar with reference to such money and movable property.
- (3) Without limiting subsection (2), rules made under that subsection may provide for—
- (a) regulating the placing on and withdrawal from deposit of money in the tribunal, and the payment or crediting of interest on money placed on deposit;
  - (b) determining the smallest amount of money on deposit on which interest is to be credited to an account to which money placed on deposit belongs;
  - (c) determining the time at which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;

- (d) determining the cases in which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
- (e) determining the cases in which interest on money placed on deposit is to be placed on deposit; and
- (f) disposing of money remaining unclaimed in the tribunal.”.

### **Division 4—District Court Ordinance (Cap. 336)**

**26. Section 52AA amended (property which may be charged)**

Section 52AA(4), Chinese text, definition of 證券—

**Repeal**

“保證物” (wherever appearing)

**Substitute**

“證券”.

**27. Section 73 amended (Suitors’ Funds Rules)**

(1) Section 73(1)(a), (b) and (d), Chinese text—

**Repeal**

“保證物”

**Substitute**

“證券”.

(2) Section 73(2)(e), Chinese text—

**Repeal**

“保證物”

**Substitute**

“證券”.

(3) Section 73(2)(f)—

**Repeal**

everything after “disposing of money”

**Substitute**

“remaining unclaimed in court.”.

- (4) After section 73(2)—

**Add**

“(3) In this section—

*securities* (證券) includes shares.”.

**Division 5—Small Claims Tribunal Ordinance (Cap. 338)**

**28. Section 36 amended (Chief Justice may make rules)**

- (1) Section 36—

**Renumber the section as section 36(1).**

- (2) After section 36(1)—

**Add**

“(2) Without limiting subsection (1), the Chief Justice may make rules for regulating the following matters—

- (a) the deposit, payment, delivery, and transfer in, into, and out of the tribunal of money of suitors;
- (b) the evidence of such deposit, payment, delivery, or transfer, and the investment of and other dealings with money in the tribunal; and
- (c) the powers and duties of the registrar with reference to such money.

- (3) Without limiting subsection (2), rules made under that subsection may provide for—

- (a) regulating the placing on and withdrawal from deposit of money in the tribunal, and the payment or crediting of interest on money placed on deposit;
- (b) determining the smallest amount of money on deposit on which interest is to be credited to an account to which money placed on deposit belongs;
- (c) determining the time at which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
- (d) determining the cases in which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
- (e) determining the cases in which interest on money placed on deposit is to be placed on deposit; and
- (f) disposing of money remaining unclaimed in the tribunal.”.

## **Division 6—Hong Kong Court of Final Appeal Ordinance (Cap. 484)**

### **29. Section 40A added**

After section 40—

**Add**

#### **“40A. Suitors’ Funds Rules**

- (1) The Chief Justice may make rules for regulating the following matters—
  - (a) the deposit, payment, delivery, and transfer in, into, and out of the Court of money of suitors;

- 
- (b) the evidence of such deposit, payment, delivery, or transfer, and the investment of and other dealings with money in the Court;
  - (c) the execution of the orders of the Court; and
  - (d) the powers and duties of the Registrar with reference to such money.
- (2) Without limiting subsection (1), rules made under that subsection may provide for—
- (a) regulating the placing on and withdrawal from deposit of money in the Court, and the payment or crediting of interest on money placed on deposit;
  - (b) determining the smallest amount of money on deposit on which interest is to be credited to an account to which money placed on deposit belongs;
  - (c) determining the time at which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
  - (d) determining the cases in which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
  - (e) determining the cases in which interest on money placed on deposit is to be placed on deposit; and
  - (f) disposing of money remaining unclaimed in the Court.”.