

## **LEGISLATIVE COUNCIL BRIEF**

### **STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2019**

#### **INTRODUCTION**

At the meeting of the Executive Council on 17 December 2019, the Council ADVISED and the Acting Chief Executive ORDERED that the Statute Law (Miscellaneous Provisions) Bill 2019 (Bill), at **Annex**, should be introduced into the Legislative Council.

**Annex**

#### **JUSTIFICATIONS**

2. There is a need to introduce an omnibus bill to make miscellaneous amendments to various Ordinances. The proposed amendments in the Bill are largely minor, technical and non-controversial but are useful for the purpose of updating or improving the relevant legislation. The proposed amendments are broadly categorised into four groups.

##### **(1) High Court Ordinance (Cap. 4)**

3. The rapid surge in civil caseloads in recent years, particularly those initiated by way of judicial review (JR) for cases stemming from non-refoulement claims, has imposed great pressure on the workload of the Judiciary, in particular for the High Court (comprising the Court of First Instance (CFI) and the Court of Appeal (CA)) and the Court of Final Appeal (CFA).

4. To ensure that all cases are handled as expeditiously as is reasonably practicable, the Judiciary proposes the following amendments to the High Court Ordinance (HCO) –

- (a) to amend section 34B(4) of the HCO to extend the use of a 2-Judge bench of

the CA (i.e. “2-Judge CA”)<sup>1</sup> to determine –

- (i) applications for leave to appeal to the CFA against the decisions made by the CA consisting of less than 3 Justices of Appeal<sup>2</sup>; and
  - (ii) appeals against the CFI’s decisions to refuse to grant leave to apply for JR or to grant such leave on terms;
- (b) to amend section 34B(5) of the HCO so that when the “2-Judge CA” in various types of proceedings cannot reach a unanimous decision, in addition to a party being allowed to apply to re-argue the case before a “3-Judge CA”, the Court may also make such an order on its own motion;
- (c) to amend sections 4(2) and 5(2) of the HCO to clarify that an additional judge in the CFI or the CA has the power to dispose of cases on paper without physically “sitting” in court.<sup>3</sup>

5. The Judiciary anticipates that the proposed amendments to the HCO in general will facilitate the processing of cases, including JR involving non-refoulement claims. If more cases are being heard by a “2-Judge CA” instead of a “3-Judge CA”, it would increase the flexibility in deployment of judicial manpower in taking up other court cases, and therefore put judicial resources to the best use. Furthermore, the clarification of the powers of the additional CFI or CA judge, as the case may be, to dispose of cases on paper can further enhance the Judiciary’s intention to promote just, expeditious and economical disposal of proceedings on paper where appropriate, thus increasing the overall efficiency of case handling.

## **(2) Interpretation and General Clauses Ordinance (Cap. 1)**

6. It is proposed to amend section 13 of the Interpretation and General Clauses Ordinance (IGCO) so that references made to an Ordinance, in accordance with section

---

<sup>1</sup> Pursuant to section 34B(2) of the HCO, the CA is deemed constituted for the purposes of exercising civil jurisdiction when it consists of an uneven number of Justices of Appeal not less than 3 (i.e. “3-Judge CA”). Section 34B(4) provides that certain types of civil proceedings can be heard by a “2-Judge CA”.

<sup>2</sup> If a substantive civil appeal decision is made by a “2-Judge CA”, the subsequent application for leave to appeal to the CFA could be heard by a “2-Judge CA”. If the substantive civil appeal decision is made by a “3-Judge CA”, the subsequent application for leave to appeal to the CFA would continue to be heard by a “3-Judge CA”.

<sup>3</sup> Sections 4(2) and 5(2) of the HCO provide respectively that a Justice of Appeal may sit in the CFI and act as a judge thereof, and a CFI judge may sit as an additional judge in the CA. There are ambiguities as to whether such an additional judge could only exercise his/her judicial power when physically ‘sitting’ in the court or whether he/she could exercise his/her judicial power to dispose of a case on paper.

13(1) of IGCO, may be made according to the title, short title, citation, number or chapter number used in the verified copies of the Ordinance published under the Legislation Publication Ordinance (Cap. 614), in addition to those used in copies of the Ordinance printed by the Government Printer. A definition of *verified copies* is also added.

### **(3) Amendments to the Chinese Text of Certain Defence Provisions Containing the “Could Not with Reasonable Diligence” References**

7. According to *HKSAR v Kong Hing Agency Ltd* [2008] 1 HKC 462, the CA interpreted the statutory defence containing the phrase “could not with reasonable diligence have (done something)” to refer to an objective test of what a person “could have been reasonably expected to have done in the circumstances”. In other words, the defence refers to a hypothetical situation. In the judgment of *香港特別行政區 v 楊啟強* [2018] 2 HKLRD 1320, the CFI commented that there are variations in the Chinese expression of the defence adopted in some legislative provisions and invited the Department of Justice to consider whether it is necessary to follow up on the variations.

8. In light of the comments from the courts, amendments are proposed to fine-tune the Chinese expression for the above defence appearing in various legislative provisions to make it explicit that the test is an objective one based on a hypothetical situation.

### **(4) Other Miscellaneous Amendments**

9. Miscellaneous, technical amendments are also proposed to various legislative provisions to, for example, update the references to the titles of certain Ordinances, achieve consistency in certain expressions, repeal provisions that were superseded by subsequent amendments before they came into operation, and to make provisions for correcting other minor errors.

## **OTHER OPTIONS**

10. The proposed changes can only be effected by legislative means. There is no other option.

## THE BILL

11. The Bill is divided into 5 Parts-
- (a) **Part 1** contains the short title and commencement clause;
  - (b) **Part 2** amends the HCO for the purposes and in the manner as described in paragraphs 3 and 4 above;
  - (c) **Part 3** amends section 13 of the IGCO for the purposes and in the manner as described in paragraph 6 above;
  - (d) **Part 4** amends the Chinese expression of the defence containing the “could not with reasonable diligence” reference for the purpose as described in paragraphs 7 and 8 above; and
  - (e) **Part 5** makes miscellaneous and technical amendments to various legislative provisions for various purposes as described in paragraph 9 above.

## LEGISLATIVE TIMETABLE

12. The legislative timetable will be as follows –

Publication in the Gazette	27 December 2019
First Reading and commencement of Second Reading debate	15 January 2020
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

## IMPLICATIONS OF THE PROPOSAL

13. The legislative proposals in the Bill are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the current binding effect of the respective Ordinances and subsidiary legislation being amended. They have no economic, productivity, environmental, sustainability, financial, civil service, family or gender implications.

## **PUBLIC CONSULTATION**

14. Regarding the Judiciary's legislative proposals mentioned in paragraph 4, the Judiciary Administration (JA) conducted a consultation with stakeholders, including the Hong Kong Bar Association (HKBA) and The Law Society of Hong Kong (the Law Society) from 17 June 2019 to 6 September 2019. The Law Society indicated general support for the proposed amendments. While the HKBA did not oppose the proposed amendments, they had initially queried whether, apart from the amendments, there are other alternative measures that could alleviate the workload of the Judiciary and whether the high standards of fairness would be affected by the proposed amendments. To address their query, the JA elaborated further on the justifications and necessity of the proposals to streamline court procedures and promote efficiency in handling cases and reiterated that the established mechanism to ensure high standards of fairness in a proceeding would in no way be affected by the proposed amendments. The HKBA thereafter indicated that it had no further comment. The Legislative Council's Panel on Administration of Justice and Legal Services (AJLS Panel) was also consulted at its meeting on 24 June 2019 and Members generally supported the proposed amendments and their being taken forward through an omnibus bill.

15. The Department of Justice further issued an information paper to the AJLS Panel on 25 November 2019 briefing Members of the Panel on the major legislative proposals to be included in the Bill.

## **PUBLICITY**

16. A press release will be issued on 24 December 2019. A spokesperson will be available for answering media enquiries.

## **ENQUIRY**

17. Any enquiry on this brief can be addressed to Miss SK Lee, Deputy Solicitor General (Policy Affairs) (Acting) at Tel, No. 3918 4003 or Ms Joey Ma, Senior Government Counsel, at Tel. No. 3918 4048.

Department of Justice  
December 2019

**Statute Law (Miscellaneous Provisions) Bill 2019****Contents**

Clause	Page
<b>Part 1</b>	
<b>Preliminary</b>	
1. Short title and commencement.....	1
2. Enactments amended .....	2
<b>Part 2</b>	
<b>Amendments to High Court Ordinance (Cap. 4)</b>	
3. Section 2 amended (interpretation) .....	3
4. Section 4 amended (constitution of Court of First Instance).....	3
5. Section 5 amended (constitution of Court of Appeal).....	3
6. Section 34B amended (composition of Court of Appeal in its civil jurisdiction).....	3
<b>Part 3</b>	
<b>Amendments to Interpretation and General Clauses Ordinance (Cap. 1)</b>	
7. Section 13 amended (citation of Ordinance).....	6
<b>Part 4</b>	
<b>Amendments to Chinese Text of Certain Provisions Containing “Could Not with Reasonable Diligence” etc. Defence</b>	
<b>Division 1—Port Control (Cargo Working Areas) Ordinance (Cap. 81)</b>	

Clause	Page
8. Section 5A amended (obligation to give certain information in respect of offences).....	7
<b>Division 2—Waterworks Ordinance (Cap. 102)</b>	
9. Section 15B amended (power of entry into non-domestic premises and power to question etc.).....	7
<b>Division 3—Dutiable Commodities (Marking and Colouring of Hydrocarbon Oil) Regulations (Cap. 109 sub. leg. C)</b>	
10. Regulation 5C amended (defence to charges under regulation 5A or 5B) .....	8
<b>Division 4—Immigration Ordinance (Cap. 115)</b>	
11. Section 37C amended (offence by crew etc., of ship carrying unauthorized entrants).....	8
12. Section 37D amended (arranging passage to Hong Kong of unauthorized entrants).....	8
13. Section 37DA amended (assisting unauthorized entrant to remain).....	9
<b>Division 5—Public Health and Municipal Services Ordinance (Cap. 132)</b>	
14. Section 54 amended (offences in connection with the sale, etc. of unfit food or drugs) .....	9
15. Section 61 amended (false labelling and advertisement of food or drugs).....	9
<b>Division 6—Pharmacy and Poisons Regulations (Cap. 138 sub. leg. A)</b>	

Clause	Page
16. Regulation 36 amended (registration of pharmaceutical products and substances).....	10
<b>Division 7—Massage Establishments Ordinance (Cap. 266)</b>	
17. Section 13 amended (offences in relation to licences).....	10
<b>Division 8—Registration of Local Newspapers Ordinance (Cap. 268)</b>	
18. Section 11 amended (unlawful to furnish incorrect particulars) .....	11
<b>Division 9—Civil Aviation (Aircraft Noise) (Certification) Regulations (Cap. 312 sub. leg. A)</b>	
19. Regulation 10 amended (noise certificate to be carried on the aircraft).....	11
<b>Division 10—Shipping and Port Control Ordinance (Cap. 313)</b>	
20. Section 60B amended (obligation to give certain information) .....	11
<b>Division 11—Hotel and Guesthouse Accommodation Ordinance (Cap. 349)</b>	
21. Section 5A amended (offence by owner and tenant of unlicensed hotel or guesthouse) .....	12
<b>Division 12—Trade Descriptions Ordinance (Cap. 362)</b>	
22. Section 12 amended (prohibited import and export of certain goods) .....	12
23. Section 26AA amended (additional defence (supply of goods or service to which false trade description is applied etc.)) .....	12

Clause	Page
24. Section 26AAB amended (additional defence (sale of goods to which forged trade mark is applied etc.)).....	12
<b>Division 13—Road Tunnels (Government) Ordinance (Cap. 368)</b>	
25. Section 12 amended (obligation to give information relating to the driving of vehicles) .....	13
<b>Division 14—Road Traffic Ordinance (Cap. 374)</b>	
26. Section 63 amended (obligation to give certain information).....	13
<b>Division 15—Clubs (Safety of Premises) Ordinance (Cap. 376)</b>	
27. Section 21 amended (offences in relation to certificates of exemption and certificates of compliance).....	13
<b>Division 16—Amusement Game Centres Ordinance (Cap. 435)</b>	
28. Section 19 amended (offences in relation to a licence).....	14
29. Section 20 amended (offence in relation to gaining admission to a licensed amusement game centre).....	14
<b>Division 17—Western Harbour Crossing Ordinance (Cap. 436)</b>	
30. Section 53 amended (obligation to give information relating to the driving of vehicles) .....	14
<b>Division 18—Bedspace Apartments Ordinance (Cap. 447)</b>	
31. Section 33 amended (offences in relation to certificates of exemption and licences).....	15
<b>Division 19—Residential Care Homes (Elderly Persons) Ordinance (Cap. 459)</b>	

Clause	Page
32. Section 21 amended (offences in relation to certificates of exemption and licences).....	15
<b>Division 20—Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474)</b>	
33. Section 46 amended (obligation to give information relating to the driving of vehicles) .....	16
<b>Division 21—Tsing Ma Control Area Ordinance (Cap. 498)</b>	
34. Section 17 amended (obligation to give information relating to the driving of vehicles) .....	16
<b>Division 22—Merchant Shipping (Local Vessels) Ordinance (Cap. 548)</b>	
35. Section 63 amended (Director may require certain information) .....	17
<b>Division 23—Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation (Cap. 548 sub. leg. D)</b>	
36. Section 38 amended (certificate of ownership number to be marked) .....	17
<b>Division 24—Chinese Medicine Ordinance (Cap. 549)</b>	
37. Section 156 amended (defence) .....	17
<b>Division 25—Entertainment Special Effects Ordinance (Cap. 560)</b>	
38. Section 14 amended (pyrotechnic special effects materials to be registered).....	18

Clause	Page
39. Section 20 amended (pyrotechnic special effects materials to be labelled, etc.) .....	18
<b>Division 26—Entertainment Special Effects (General) Regulation (Cap. 560 sub. leg. A)</b>	
40. Section 28 amended (offences under this Part).....	19
<b>Division 27—Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566)</b>	
41. Section 5 amended (contravention of conditions of licence or certificate of exemption) .....	19
<b>Division 28—Karaoke Establishments Ordinance (Cap. 573)</b>	
42. Section 17 amended (offences in relation to permits and licences) .....	19
<b>Division 29—Karaoke Establishments (Licensing) Regulation (Cap. 573 sub. leg. A)</b>	
43. Section 9 amended (offences and penalties) .....	20
<b>Division 30—Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613)</b>	
44. Section 22 amended (offences in relation to licences and certificates of exemption).....	20
<b>Division 31—Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629)</b>	



Clause	Page
45. Section 4 amended (declaration for CBNIs in possession of persons arriving at specified control points) .....	20
46. Section 5 amended (disclosure by persons arriving in Hong Kong other than at specified control points and persons about to leave Hong Kong) .....	21
47. Section 6 amended (declaration by persons making disclosure under section 5) .....	21
48. Section 9 amended (declaration by importers or exporters of CBNIs) .....	22

**Part 5**

**Miscellaneous Amendments**

**Division 1—Amendments to References to “Widows’ and Children’s Pensions Ordinance” and Related Amendments**

**Subdivision 1—Pensions (Special Provisions) (Customs Officers) Ordinance (Cap. 35)**

49. Long title amended .....	23
50. Section 2 amended (interpretation) .....	23
51. Section 3 amended (grant of right to refund of contributions and effect thereof) .....	23
52. Section 4 amended (non-contributing officers) .....	24

**Subdivision 2—Widows and Orphans Pension Ordinance (Cap. 94)**

Clause	Page
53. Section 35 amended (certain contributors under Widows’ and Children’s Pensions Scheme to withdraw from this Scheme) .....	24
54. Section 36 amended (no new contributors after commencement of Widows’ and Children’s Pensions Scheme) .....	25

**Division 2—Amendments to References to “Protection of Women and Juveniles Ordinance” and Related Amendments**

**Subdivision 1—Offences against the Person Ordinance (Cap. 212)**

55. Section 43 amended (stealing child under 14 years) .....	25
--	----

**Subdivision 2—Juvenile Offenders Ordinance (Cap. 226)**

56. Section 15 amended (methods of dealing with children or young persons charged with offences) .....	26
--	----

**Subdivision 3—Firearms and Ammunition Ordinance (Cap. 238)**

57. Schedule amended (provisions to which sections 17(2) and 20(2) apply) .....	26
---	----

**Subdivision 4—Adoption Ordinance (Cap. 290)**

58. Section 14 amended (cessation of certain orders, etc.) .....	26
--	----

**Subdivision 5—Official Solicitor Ordinance (Cap. 416)**

59. Schedule 1 amended (duties of the Official Solicitor) .....	27
---	----

**Division 3—Amendments to References to “《司法訴訟(烈風警告期間聆訊延期)條例》”**

**Subdivision 1—Government Lotteries Ordinance (Cap. 334)**

Clause	Page
60. Section 2 amended (interpretation) .....	27
<b>Subdivision 2—Film Censorship Ordinance (Cap. 392)</b>	
61. Section 2 amended (interpretation) .....	27
<b>Subdivision 3—Merchant Shipping (Seafarers) Ordinance (Cap. 478)</b>	
62. Section 2 amended (interpretation) .....	28
<b>Division 4—Amendments to References to “Defective”</b>	
<b>Subdivision 1—Child Care Services Ordinance (Cap. 243)</b>	
63. Schedule amended (offences relevant to meaning of <i>prohibited person</i> ) .....	28
<b>Subdivision 2—Post-release Supervision of Prisoners Regulation (Cap. 475 sub. leg. A)</b>	
64. Schedule 1 amended (specified offences) .....	29
<b>Subdivision 3—Social Workers Registration Ordinance (Cap. 505)</b>	
65. Schedule 2 amended (description of offences which disentitle persons from being or continuing to be registered social workers) .....	29
<b>Division 5—Amendments to Cross-references</b>	
<b>Subdivision 1—Money Changers Ordinance (Cap. 34)</b>	
66. Schedule 1 amended (transaction note) .....	29
67. Schedule 2 amended (permitted statements) .....	30
68. Schedule 3 amended (prescribed currencies) .....	30

Clause	Page
<b>Subdivision 2—Apprenticeship (Designation of Trades) (Consolidation) Order (Cap. 47 sub. leg. B)</b>	
69. Schedule amended .....	30
<b>Subdivision 3—Public Swimming Pools Regulation (Cap. 132 sub. leg. BR)</b>	
70. Section 13 amended (general penalties and power to remove offenders from swimming pool) .....	31
<b>Subdivision 4—Designation of Public Officers Notice (Cap. 178 sub. leg. D)</b>	
71. Schedule amended .....	31
<b>Subdivision 5—Official Solicitor Ordinance (Cap. 416)</b>	
72. Schedule 1 amended (duties of the Official Solicitor) .....	32
<b>Subdivision 6—Justices of the Peace Ordinance (Cap. 510)</b>	
73. Schedule 1 amended .....	32
<b>Subdivision 7—Estate Agents Ordinance (Cap. 511)</b>	
74. Section 2 amended (interpretation) .....	32
75. Schedule amended (constitution, etc. of the Authority) .....	33
<b>Subdivision 8—Copyright Ordinance (Cap. 528)</b>	
76. Schedule 2 amended (copyright: transitional provisions and savings) .....	33
<b>Subdivision 9—Mass Transit Railway (Transport Interchange) Bylaw (Cap. 556 sub. leg. D)</b>	
77. Schedule 3 amended .....	34

Clause	Page
<b>Subdivision 10—Travel Industry Ordinance (Cap. 634)</b>	
78. Section 28 amended (requirement to cease to be authorized representative).....	34
<b>Division 6—Amendments to Achieve Consistency</b>	
<b>Subdivision 1—Jury Ordinance (Cap. 3)</b>	
79. Schedule amended .....	34
<b>Subdivision 2—Betting Duty Ordinance (Cap. 108)</b>	
80. Section 6K amended (calculation of net stake receipts).....	35
81. Section 6L amended (adjustments to net stake receipts).....	35
82. Section 6N amended (provisional payments).....	35
<b>Subdivision 3—Births and Deaths Registration Ordinance (Cap. 174)</b>	
83. Second Schedule amended .....	36
<b>Subdivision 4—Marriage Reform (Forms) Regulations (Cap. 178 sub. leg. C)</b>	
84. Schedule amended .....	36
<b>Subdivision 5—Crimes Ordinance (Cap. 200)</b>	
85. Section 68 amended (interpretation) .....	36
86. Section 78 amended (powers of search, forfeiture, etc.).....	37
87. Section 95 amended (interpretation) .....	37
88. Section 106 amended (powers of search, forfeiture, etc.).....	37
<b>Subdivision 6—Pension Benefits (Judicial Officers) Ordinance (Cap. 401)</b>	

Clause	Page
89. Section 11B amended (notice for opting for retirement age (extension) arrangement).....	38
<b>Subdivision 7—Pension Benefits (Judicial Officers) Regulations (Cap. 401 sub. leg. A)</b>	
90. Regulation 4 amended (pension factor) .....	38
91. Regulation 5 amended (rate of short service gratuity) .....	39
92. Regulation 8 amended (pension for service wholly within the Group).....	39
93. Regulation 11 amended (rate of short service gratuity) .....	39
94. Regulation 16 amended (emoluments to be taken for computing pension benefits).....	39
95. Regulation 17 amended (service which may be taken as pensionable service).....	40
96. Regulation 18 amended (deemed increase in service where retirement is on medical grounds).....	40
97. Regulation 21 amended (rates of additional pension on retirement on abolition of office or compulsory retirement).....	40
98. Regulation 22 amended (rates of additional pension on account of injuries) .....	41
<b>Subdivision 8—Amusement Game Centres Ordinance (Cap. 435)</b>	
99. Section 20 amended (offence in relation to gaining admission to a licensed amusement game centre).....	41

Clause	Page
<b>Subdivision 9—Copyright Ordinance (Cap. 528)</b>	
100.	Section 76 heading amended (performance, showing or playing of works for purposes of club, society, etc.) .....41
101.	Section 81 amended (free public showing or playing of broadcast or cable programme).....42
102.	Section 233 amended (jurisdiction of Copyright Tribunal) .....42
103.	Section 255 amended (performance, showing or playing of works for purposes of club, society, etc.).....42
<b>Subdivision 10—Private Healthcare Facilities Ordinance (Cap. 633)</b>	
104.	Section 174 amended (regulation 176 amended (general provisions relating to storage, conveyance and packing of dangerous goods in category 10)) .....42
<b>Division 7—Repeal of Superseded Provisions</b>	
<b>Subdivision 1—Supplementary Medical Professions, Midwives Registration and Nurses Registration (Amendment) Ordinance 1985 (67 of 1985)</b>	
105.	Schedule amended .....43
<b>Subdivision 2—Banking (Amendment) Ordinance 1999 (42 of 1999)</b>	
106.	Section 6 repealed (section added).....43
<b>Subdivision 3—Dangerous Goods (Amendment) Ordinance 2002 (4 of 2002)</b>	
107.	Section 15 repealed (interpretation).....44
<b>Subdivision 4—Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 (32 of 2002)</b>	

Clause	Page
108.	Section 1 amended (short title and commencement) .....44
109.	Sections 14 and 19 repealed.....44
<b>Subdivision 5—Merchant Shipping (Safety) (Amendment) Ordinance 2009 (10 of 2009)</b>	
110.	Section 2 amended (commencement) .....44
111.	Section 43 repealed (interpretation).....44
112.	Section 44 amended (practice of musters and drills) .....45
113.	Section 45 repealed (“國際航行” substituted by “國際航程”).....45
114.	Sections 48 and 49 and cross-headings repealed .....45
<b>Subdivision 6—Inland Revenue (Amendment) (No. 2) Ordinance 2018 (12 of 2018)</b>	
115.	Section 1 amended (short title and commencement) .....45
116.	Section 6 repealed (Schedules 16A and 16B added).....46
<b>Division 8—Technical and Other Amendments</b>	
<b>Subdivision 1—Matrimonial Causes Ordinance (Cap. 179)</b>	
117.	Section 5 amended (jurisdiction in judicial separation) .....46
<b>Subdivision 2—Delegation of Powers and Functions (Cap. 283 sub. leg. B)</b>	
118.	Delegation of Powers and Functions repealed .....46
<b>Subdivision 3—Small Claims Tribunal Ordinance (Cap. 338)</b>	

Clause	Page
119. Section 29 amended (powers of Court of First Instance on appeal).....	46
<b>Subdivision 4—Trade Descriptions Ordinance (Cap. 362)</b>	
120. Section 26A amended (additional defence (bait advertising)).....	47
<b>Subdivision 5—Pension Benefits (Judicial Officers) Ordinance (Cap. 401)</b>	
121. Section 23 amended (pensionable emoluments).....	47
<b>Subdivision 6—Social Workers Registration Ordinance (Cap. 505)</b>	
122. Section 34 amended (use of title).....	48
<b>Subdivision 7—Estate Agents Ordinance (Cap. 511)</b>	
123. Section 24 amended (refusal of application for licence or renewal) .....	48
<b>Subdivision 8—Securities and Futures Ordinance (Cap. 571)</b>	
124. Schedule 8 amended (Securities and Futures Appeals Tribunal) .....	48
<b>Subdivision 9—Competition Ordinance (Cap. 619)</b>	
125. Section 61 amended (withdrawal of acceptance of commitment).....	49
<b>Subdivision 10—Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements—Banking Sector) Rules (Cap. 628 sub. leg. B)</b>	
126. Rule 2 amended (interpretation).....	50

## A BILL

## To

Make miscellaneous amendments to various Ordinances.

Enacted by the Legislative Council.

### Part 1

#### Preliminary

#### 1. Short title and commencement

- (1) This Ordinance may be cited as the Statute Law (Miscellaneous Provisions) Ordinance 2019.
- (2) Subject to subsections (3) and (4), this Ordinance comes into operation on the expiry of 30 days beginning on the day on which it is published in the Gazette.
- (3) Part 2 comes into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.
- (4) Division 11 of Part 4 comes into operation on the later of the following dates—
  - (a) the date on which this Ordinance is published in the Gazette; or
  - (b) the commencement date of Part 2 of the Ordinance enacted by the Legislative Council through the passage, with or without amendment, of the Hotel and Guesthouse Accommodation (Amendment) Bill 2018 published in the Gazette on 6 July 2018.

**2. Enactments amended**

The enactments specified in Parts 2 to 5 are amended as set out in those Parts.

---

**Part 2****Amendments to High Court Ordinance (Cap. 4)****3. Section 2 amended (interpretation)**

Section 2, definition of *Justice of Appeal*—

**Repeal**

“sitting”

**Substitute**

“acting”.

**4. Section 4 amended (constitution of Court of First Instance)**

Section 4(2)—

**Repeal**

“sit in the Court of First Instance and act as a judge thereof”

**Substitute**

“act as a judge of the Court of First Instance”.

**5. Section 5 amended (constitution of Court of Appeal)**

Section 5(2)—

**Repeal**

“sit”

**Substitute**

“act”.

**6. Section 34B amended (composition of Court of Appeal in its civil jurisdiction)**

(1) Section 34B(4)(aa), after “Appeal”—

**Add**

“against a decision made by the Court consisting of 3 or more Justices of Appeal”.

- (2) After section 34B(4)(ab)—

**Add**

“(ac) hearing or determining any appeal made under Order 53, rule 3(4) of the Rules of the High Court (Cap. 4 sub. leg. A) (*O.53 r.3(4) appeal*);”.

- (3) After section 34B(4)—

**Add**

“(4A) Despite subsection (4)(aa), if an application for leave to appeal to the Court of Final Appeal against a decision made by the Court consisting of less than 3 Justices of Appeal was duly filed before the commencement date, the Court consisting of 2 Justices of Appeal is not duly constituted for the purpose of hearing or determining the application.

- (4B) Despite subsection (4)(ac), if an O.53 r.3(4) appeal (except one falling within subsection (4)(c)) was duly filed before the commencement date, the Court consisting of 2 Justices of Appeal is not duly constituted for the purpose of hearing or determining the appeal.

- (4C) In subsections (4A) and (4B)—

*commencement date* (生效日期) means the date on which Part 2 of the Statute Law (Miscellaneous Provisions) Ordinance 2019 ( of 2019) comes into operation.”.

- (4) Section 34B(5)—

**Repeal paragraph (a)****Substitute**

“(a) the Court as duly constituted under subsection (4) hears an appeal or application; and”.

- (5) Section 34B(5)—

**Repeal**

everything after “any party”

**Substitute**

“or by order of the Court made of its motion, be re-argued before and determined by an uneven number of Justices of Appeal not less than 3, before any appeal to the Court of Final Appeal under this Ordinance or any other enactment.”.

**Part 3****Amendments to Interpretation and General Clauses  
Ordinance (Cap. 1)****7. Section 13 amended (citation of Ordinance)****(1) Section 13(2)—****Repeal**

everything after “used in”

**Substitute**

“—

- (a) copies of Ordinances printed by the Government Printer; or
- (b) verified copies of Ordinances.”.

**(2) After section 13(2)—****Add****“(3) In this section—**

*verified copies* (經核證文本) means verified copies within the meaning of section 5(1) of the Legislation Publication Ordinance (Cap. 614).”.

**Part 4****Amendments to Chinese Text of Certain Provisions  
Containing “Could Not with Reasonable Diligence” etc.  
Defence****Division 1—Port Control (Cargo Working Areas)  
Ordinance (Cap. 81)****8. Section 5A amended (obligation to give certain information in  
respect of offences)**

Section 5A(6), Chinese text—

**Repeal**

“雖經”

**Substitute**

“即使作出”.

**Division 2—Waterworks Ordinance (Cap. 102)****9. Section 15B amended (power of entry into non-domestic  
premises and power to question etc.)**

Section 15B(6), Chinese text—

**Repeal**

“已”.



### **Division 3—Dutiable Commodities (Marking and Colouring of Hydrocarbon Oil) Regulations (Cap. 109 sub. leg. C)**

#### **10. Regulation 5C amended (defence to charges under regulation 5A or 5B)**

(1) Regulation 5C(1), Chinese text—

**Repeal**

“盡了”

**Substitute**

“作出”.

(2) Regulation 5C(2)(b), Chinese text—

**Repeal**

“盡了”

**Substitute**

“作出”.

### **Division 4—Immigration Ordinance (Cap. 115)**

#### **11. Section 37C amended (offence by crew etc., of ship carrying unauthorized entrants)**

Section 37C(2)(a), Chinese text—

**Repeal**

“在合理努力下”

**Substitute**

“即使作出合理的努力也”.

#### **12. Section 37D amended (arranging passage to Hong Kong of unauthorized entrants)**

Section 37D(2), Chinese text—

**Repeal**

“在合理努力下”

**Substitute**

“即使作出合理的努力也”.

#### **13. Section 37DA amended (assisting unauthorized entrant to remain)**

Section 37DA(2), Chinese text—

**Repeal**

“在合理努力下”

**Substitute**

“即使作出合理的努力也”.

### **Division 5—Public Health and Municipal Services Ordinance (Cap. 132)**

#### **14. Section 54 amended (offences in connection with the sale, etc. of unfit food or drugs)**

Section 54(3)(b), Chinese text—

**Repeal**

“已盡”

**Substitute**

“作出”.

#### **15. Section 61 amended (false labelling and advertisement of food or drugs)**

(1) Section 61(1), Chinese text—

**Repeal**

“已盡”

**Substitute**

“作出”.

- (2) Section 61(3)(a), Chinese text—

**Repeal**

“已盡”

**Substitute**

“作出”.

**Division 6—Pharmacy and Poisons Regulations (Cap. 138  
sub. leg. A)**

- 16.
- Regulation 36 amended (registration of pharmaceutical products and substances)**

Regulation 36(1C), Chinese text—

**Repeal**

“已盡”

**Substitute**

“作出”.

**Division 7—Massage Establishments Ordinance (Cap. 266)**

- 17.
- Section 13 amended (offences in relation to licences)**

Section 13(2)(b), Chinese text—

**Repeal**

“盡”.

**Division 8—Registration of Local Newspapers Ordinance  
(Cap. 268)**

- 18.
- Section 11 amended (unlawful to furnish incorrect particulars)**

Section 11(b), Chinese text—

**Repeal**

“盡了”

**Substitute**

“作出”.

**Division 9—Civil Aviation (Aircraft Noise) (Certification)  
Regulations (Cap. 312 sub. leg. A)**

- 19.
- Regulation 10 amended (noise certificate to be carried on the aircraft)**

Regulation 10(5), Chinese text—

**Repeal**

“經合理”

**Substitute**

“即使作出合理”.

**Division 10—Shipping and Port Control Ordinance (Cap.  
313)**

- 20.
- Section 60B amended (obligation to give certain information)**

Section 60B(3), Chinese text—

**Repeal**

“在合理努力下”

**Substitute**

“即使作出合理努力”。

### **Division 11—Hotel and Guesthouse Accommodation Ordinance (Cap. 349)**

21. **Section 5A amended (offence by owner and tenant of unlicensed hotel or guesthouse)**

Section 5A(4)(a), Chinese text—

**Repeal**

“程度”。

### **Division 12—Trade Descriptions Ordinance (Cap. 362)**

22. **Section 12 amended (prohibited import and export of certain goods)**

Section 12(2A)(a)(i)(C), Chinese text—

**Repeal**

“已”。

23. **Section 26AA amended (additional defence (supply of goods or service to which false trade description is applied etc.))**

Section 26AA(a)(iii), Chinese text—

**Repeal**

“已”。

24. **Section 26AAB amended (additional defence (sale of goods to which forged trade mark is applied etc.))**

Section 26AAB(a)(iii), Chinese text—

**Repeal**

“已”。

### **Division 13—Road Tunnels (Government) Ordinance (Cap. 368)**

25. **Section 12 amended (obligation to give information relating to the driving of vehicles)**

Section 12(6), Chinese text—

**Repeal**

“經合理努力後”

**Substitute**

“即使作出合理努力”。

### **Division 14—Road Traffic Ordinance (Cap. 374)**

26. **Section 63 amended (obligation to give certain information)**

Section 63(5), Chinese text—

**Repeal**

“經合理的努力後”

**Substitute**

“即使作出合理的努力”。

### **Division 15—Clubs (Safety of Premises) Ordinance (Cap. 376)**

27. **Section 21 amended (offences in relation to certificates of exemption and certificates of compliance)**

Section 21(2)(b), Chinese text—

**Repeal**

“努力”

**Substitute**

“合理的努力”。

### **Division 16—Amusement Game Centres Ordinance (Cap. 435)**

#### **28. Section 19 amended (offences in relation to a licence)**

Section 19(3)(b), Chinese text—

**Repeal**

“在合理範圍內盡了力”

**Substitute**

“合理的努力”。

#### **29. Section 20 amended (offence in relation to gaining admission to a licensed amusement game centre)**

Section 20(3)(b), Chinese text—

**Repeal**

“在合理範圍內盡了力”

**Substitute**

“作出合理的努力”。

### **Division 17—Western Harbour Crossing Ordinance (Cap. 436)**

#### **30. Section 53 amended (obligation to give information relating to the driving of vehicles)**

Section 53(6), Chinese text—

**Repeal**

“在合理範圍內盡了力”

**Substitute**

“作出合理努力”。

### **Division 18—Bedspace Apartments Ordinance (Cap. 447)**

#### **31. Section 33 amended (offences in relation to certificates of exemption and licences)**

(1) Section 33(1)(b), Chinese text—

**Repeal**

“作了合理的監管及努力”

**Substitute**

“作出合理的監管及合理的努力”。

(2) Section 33(2)(b), Chinese text—

**Repeal**

“作了合理的監管及努力”

**Substitute**

“作出合理的監管及合理的努力”。

### **Division 19—Residential Care Homes (Elderly Persons) Ordinance (Cap. 459)**

#### **32. Section 21 amended (offences in relation to certificates of exemption and licences)**

(1) Section 21(2)(b), Chinese text—

**Repeal**

“在合理範圍內盡力”

**Substitute**

“合理的努力”。

(2) Section 21(4)(b), Chinese text—

**Repeal**

“在合理範圍內盡力”

**Substitute**

“合理的努力”。

**Division 20—Tai Lam Tunnel and Yuen Long Approach  
Road Ordinance (Cap. 474)**

33. **Section 46 amended (obligation to give information relating to the driving of vehicles)**

Section 46(5), Chinese text—

**Repeal**

“盡了”

**Substitute**

“作出”。

**Division 21—Tsing Ma Control Area Ordinance (Cap. 498)**

34. **Section 17 amended (obligation to give information relating to the driving of vehicles)**

Section 17(6), Chinese text—

**Repeal**

“經”

**Substitute**

“即使作出”。

**Division 22—Merchant Shipping (Local Vessels) Ordinance  
(Cap. 548)**

35. **Section 63 amended (Director may require certain information)**

Section 63(3), Chinese text—

**Repeal**

“在合理努力下”

**Substitute**

“即使作出合理努力”。

**Division 23—Merchant Shipping (Local Vessels)  
(Certification and Licensing) Regulation (Cap. 548 sub. leg.  
D)**

36. **Section 38 amended (certificate of ownership number to be marked)**

Section 38(6), Chinese text—

**Repeal**

“有盡”

**Substitute**

“作出”。

**Division 24—Chinese Medicine Ordinance (Cap. 549)**

37. **Section 156 amended (defence)**

(1) Section 156(1)(c), Chinese text—

**Repeal**

“盡了合理努力後”

**Substitute**

“即使作出合理努力”。

- (2) Section 156(2)(c), Chinese text—

**Repeal**

“盡了合理努力後”

**Substitute**

“即使作出合理努力”。

**Division 25—Entertainment Special Effects Ordinance  
(Cap. 560)**

38. **Section 14 amended (pyrotechnic special effects materials to be registered)**

Section 14(3), Chinese text—

**Repeal**

“盡了合理努力後”

**Substitute**

“即使作出合理努力”。

39. **Section 20 amended (pyrotechnic special effects materials to be labelled, etc.)**

Section 20(4), Chinese text—

**Repeal**

“盡了合理努力後”

**Substitute**

“即使作出合理努力”。

**Division 26—Entertainment Special Effects (General)  
Regulation (Cap. 560 sub. leg. A)**

40. **Section 28 amended (offences under this Part)**

Section 28(5), Chinese text—

**Repeal**

“盡了合理努力後”

**Substitute**

“作出合理努力”。

**Division 27—Drug Dependent Persons Treatment and  
Rehabilitation Centres (Licensing) Ordinance (Cap. 566)**

41. **Section 5 amended (contravention of conditions of licence or certificate of exemption)**

Section 5(2)(b), Chinese text—

**Repeal**

“有作出合理的監管及努力”

**Substitute**

“作出合理的監管及合理的努力”。

**Division 28—Karaoke Establishments Ordinance (Cap. 573)**

42. **Section 17 amended (offences in relation to permits and licences)**

Section 17(2)(ii), Chinese text—

**Repeal**

“有作出合理監管及付出合理努力”

**Substitute**

“作出合理的監管及合理的努力”。

**Division 29—Karaoke Establishments (Licensing)  
Regulation (Cap. 573 sub. leg. A)**

**43. Section 9 amended (offences and penalties)**

Section 9(2)(d), Chinese text—

**Repeal**

“有作出合理監管及付出合理努力”

**Substitute**

“作出合理的監管及合理的努力”。

**Division 30—Residential Care Homes (Persons with  
Disabilities) Ordinance (Cap. 613)**

**44. Section 22 amended (offences in relation to licences and  
certificates of exemption)**

(1) Section 22(2)(b), Chinese text—

**Repeal**

“程度”。

(2) Section 22(4)(b), Chinese text—

**Repeal**

“程度”。

**Division 31—Cross-boundary Movement of Physical  
Currency and Bearer Negotiable Instruments Ordinance  
(Cap. 629)**

**45. Section 4 amended (declaration for CBNIs in possession of  
persons arriving at specified control points)**

(1) Section 4(9), Chinese text—

**Repeal**

“有作出”

**Substitute**

“作出”。

(2) Section 4(10), Chinese text—

**Repeal**

“有作出”

**Substitute**

“作出”。

**46. Section 5 amended (disclosure by persons arriving in Hong Kong  
other than at specified control points and persons about to leave  
Hong Kong)**

Section 5(7), Chinese text—

**Repeal**

“有作出”

**Substitute**

“作出”。

**47. Section 6 amended (declaration by persons making disclosure  
under section 5)**

Section 6(7), Chinese text—

**Repeal**

“有作出”

**Substitute**

“作出”。

**48. Section 9 amended (declaration by importers or exporters of CBNIs)**

(1) Section 9(5), Chinese text—

**Repeal**

“有作出”

**Substitute**

“作出”.

(2) Section 9(6), Chinese text—

**Repeal**

“有作出”

**Substitute**

“作出”.

**Part 5**

**Miscellaneous Amendments**

**Division 1—Amendments to References to “Widows’ and Children’s Pensions Ordinance” and Related Amendments**

**Subdivision 1—Pensions (Special Provisions) (Customs Officers) Ordinance (Cap. 35)**

**49. Long title amended**

The long title—

**Repeal**

“Widows’ and Children’s Pensions Ordinance”

**Substitute**

“Surviving Spouses’ and Children’s Pensions Ordinance”.

**50. Section 2 amended (interpretation)**

Section 2, definition of *eligible officer*, paragraph (b)—

**Repeal**

“Widows’ and Children’s Pensions Ordinance”

**Substitute**

“Surviving Spouses’ and Children’s Pensions Ordinance”.

**51. Section 3 amended (grant of right to refund of contributions and effect thereof)**

(1) Section 3(a)—

**Repeal**

“Widows’ and Children’s Pensions Ordinance”



**Substitute**

“Surviving Spouses’ and Children’s Pensions Ordinance”.

- (2) Section 3(c)—

**Repeal**

“Widows’ and Children’s Pensions Ordinance”

**Substitute**

“Surviving Spouses’ and Children’s Pensions Ordinance”.

**52. Section 4 amended (non-contributing officers)**

Section 4(2)—

**Repeal**

“Widows’ and Children’s Pensions Ordinance”

**Substitute**

“Surviving Spouses’ and Children’s Pensions Ordinance”.

**Subdivision 2—Widows and Orphans Pension Ordinance (Cap.  
94)**

**53. Section 35 amended (certain contributors under Widows’ and Children’s Pensions Scheme to withdraw from this Scheme)**

- (1) Section 35, heading—

**Repeal**

“Widows’ and Children’s Pensions Scheme”

**Substitute**

“Surviving Spouses’ and Children’s Pensions Scheme”.

- (2) Section 35(a)—

**Repeal**

“Widows’ and Children’s Pensions Ordinance”

**Substitute**

“Surviving Spouses’ and Children’s Pensions Ordinance”.

**54. Section 36 amended (no new contributors after commencement of Widows’ and Children’s Pensions Scheme)**

- (1) Section 36, heading—

**Repeal**

“Widows’ and Children’s Pensions Scheme”

**Substitute**

“Surviving Spouses’ and Children’s Pensions Scheme”.

- (2) Section 36—

**Repeal**

“Widows’ and Children’s Pensions Ordinance”

**Substitute**

“Surviving Spouses’ and Children’s Pensions Ordinance”.

**Division 2—Amendments to References to “Protection of  
Women and Juveniles Ordinance” and Related  
Amendments**

**Subdivision 1—Offences against the Person Ordinance (Cap.  
212)**

**55. Section 43 amended (stealing child under 14 years)**

Section 43(2), English text, proviso, paragraph (a)—

**Repeal**

“Protection of Women and Juveniles Ordinance”

**Substitute**

“Protection of Children and Juveniles Ordinance”.

**Subdivision 2—Juvenile Offenders Ordinance (Cap. 226)****56. Section 15 amended (methods of dealing with children or young persons charged with offences)**

Section 15(1)(e), English text—

**Repeal**

“Protection of Women and Juveniles Ordinance”

**Substitute**

“Protection of Children and Juveniles Ordinance”.

**Subdivision 3—Firearms and Ammunition Ordinance (Cap. 238)****57. Schedule amended (provisions to which sections 17(2) and 20(2) apply)**

(1) The Schedule, English text, item 4, column 2—

**Repeal**

“Protection of Women and Juveniles Ordinance”

**Substitute**

“Protection of Children and Juveniles Ordinance”.

(2) The Schedule, item 4, column 4—

**Repeal**

“female infant or any young person or child”

**Substitute**

“child or juvenile”.

**Subdivision 4—Adoption Ordinance (Cap. 290)****58. Section 14 amended (cessation of certain orders, etc.)**

Section 14(3), English text—

**Repeal**

“Protection of Women and Juveniles Ordinance”

**Substitute**

“Protection of Children and Juveniles Ordinance”.

**Subdivision 5—Official Solicitor Ordinance (Cap. 416)****59. Schedule 1 amended (duties of the Official Solicitor)**

Schedule 1, Part 3—

**Repeal**

“Protection of Women and Juveniles Ordinance”

**Substitute**

“Protection of Children and Juveniles Ordinance”.

**Division 3—Amendments to References to “《司法訴訟(烈風警告期間聆訊延期)條例》”****Subdivision 1—Government Lotteries Ordinance (Cap. 334)****60. Section 2 amended (interpretation)**Section 2, Chinese text, definition of ~~烈風警告~~**Repeal**

“《司法訴訟(烈風警告期間聆訊延期)條例》”

**Substitute**

“《司法程序(烈風警告期間聆訊延期)條例》”.

**Subdivision 2—Film Censorship Ordinance (Cap. 392)****61. Section 2 amended (interpretation)**Section 2(1), Chinese text, definition of ~~工作天~~

**Repeal**

“《司法訴訟(烈風警告期間聆訊延期)條例》”

**Substitute**

“《司法程序(烈風警告期間聆訊延期)條例》”。

**Subdivision 3—Merchant Shipping (Seafarers) Ordinance (Cap. 478)**

**62. Section 2 amended (interpretation)**

Section 2(1), Chinese text, definition of *工作日*—

**Repeal**

“《司法訴訟(烈風警告期間聆訊延期)條例》”

**Substitute**

“《司法程序(烈風警告期間聆訊延期)條例》”。

**Division 4—Amendments to References to “Defective”**

**Subdivision 1—Child Care Services Ordinance (Cap. 243)**

**63. Schedule amended (offences relevant to meaning of *prohibited person*)**

The Schedule, paragraph 5—

**Repeal**

“defective” (wherever appearing)

**Substitute**

“mentally incapacitated person”.

**Subdivision 2—Post-release Supervision of Prisoners Regulation (Cap. 475 sub. leg. A)**

**64. Schedule 1 amended (specified offences)**

Schedule 1, item 4, column 3—

**Repeal**

“defective” (wherever appearing)

**Substitute**

“mentally incapacitated person”.

**Subdivision 3—Social Workers Registration Ordinance (Cap. 505)**

**65. Schedule 2 amended (description of offences which disentitle persons from being or continuing to be registered social workers)**

Schedule 2, item 2—

**Repeal**

“defective” (wherever appearing)

**Substitute**

“mentally incapacitated person”.

**Division 5—Amendments to Cross-references**

**Subdivision 1—Money Changers Ordinance (Cap. 34)**

**66. Schedule 1 amended (transaction note)**

Schedule 1—

**Repeal**

“[s. 4(1)(a)]”

**Substitute**

“[ss. 4 & 9]”.

**67. Schedule 2 amended (permitted statements)**

Schedule 2—

**Repeal**

“[s. 4(3)]”

**Substitute**

“[ss. 4 & 9]”.

**68. Schedule 3 amended (prescribed currencies)**

Schedule 3—

**Repeal**

“[ss. 6(1) & 7(1)]”

**Substitute**

“[ss. 6, 7 & 9]”.

**Subdivision 2—Apprenticeship (Designation of Trades)  
(Consolidation) Order (Cap. 47 sub. leg. B)**

**69. Schedule amended**

The Schedule—

**Repeal**

**“Schedule”**

**Substitute**

**“Schedule**

**[s. 2]”.**

**Subdivision 3—Public Swimming Pools Regulation (Cap. 132  
sub. leg. BR)**

**70. Section 13 amended (general penalties and power to remove  
offenders from swimming pool)**

Section 13(1)—

**Repeal**

“10(6)”

**Substitute**

“10(2)”.

**Subdivision 4—Designation of Public Officers Notice (Cap. 178  
sub. leg. D)**

**71. Schedule amended**

The Schedule—

**Repeal**

**“Schedule”**

**Substitute**

**“Schedule**

[s. 2]”.

**Subdivision 5—Official Solicitor Ordinance (Cap. 416)****72. Schedule 1 amended (duties of the Official Solicitor)**

Schedule 1—

**Repeal**

“[s. 4]”

**Substitute**

“[ss. 4 &amp; 8]”.

**Subdivision 6—Justices of the Peace Ordinance (Cap. 510)****73. Schedule 1 amended**

Schedule 1, Chinese text, Part III, section 1—

**Repeal**

“《退休金及有關利益條例》”

**Substitute**

“《退休金利益條例》”.

**Subdivision 7—Estate Agents Ordinance (Cap. 511)****74. Section 2 amended (interpretation)**

Section 2(1), Chinese text, definition of 臨時牌照—

**Repeal**

“第 23(5)條”

**Substitute**

“第 23(3)條”.

**75. Schedule amended (constitution, etc. of the Authority)**

The Schedule—

**Repeal**

“[ss. 2 &amp; 4(3)]”

**Substitute**

“[s. 4]”.

**Subdivision 8—Copyright Ordinance (Cap. 528)****76. Schedule 2 amended (copyright: transitional provisions and savings)**

(1) Schedule 2, paragraph 15(3)(a)—

**Repeal**

“paragraph 11(3)(b)”

**Substitute**

“paragraph 13(3)(b)”.

(2) Schedule 2, paragraph 15(3)(b)—

**Repeal**

“paragraph 11(6)”

**Substitute**

“paragraph 13(6)”.

**Subdivision 9—Mass Transit Railway (Transport Interchange)  
Bylaw (Cap. 556 sub. leg. D)****77. Schedule 3 amended**

Schedule 3—

**Repeal**

“[ss. 1, 39, 40, 44 &amp; 50]”

**Substitute**

“[ss. 39, 40, 44 &amp; 50]”.

**Subdivision 10—Travel Industry Ordinance (Cap. 634)****78. Section 28 amended (requirement to cease to be authorized  
representative)**

Section 28(6), Chinese text—

**Repeal**

“第(4)款”

**Substitute**

“第(4)(b)款”.

**Division 6—Amendments to Achieve Consistency****Subdivision 1—Jury Ordinance (Cap. 3)****79. Schedule amended**

The Schedule, Form 1—

**Repeal**

“\$3,000”

**Substitute**

“level 2”.

**Subdivision 2—Betting Duty Ordinance (Cap. 108)****80. Section 6K amended (calculation of net stake receipts)**

Section 6K(1), Chinese text—

**Repeal**

“數學程式”

**Substitute**

“公式”.

**81. Section 6L amended (adjustments to net stake receipts)**

Section 6L(1), Chinese text—

**Repeal**

“數學程式”

**Substitute**

“公式”.

**82. Section 6N amended (provisional payments)**

Section 6N(2), Chinese text—

**Repeal**

“數學程式”

**Substitute**

“公式”.

**Subdivision 3—Births and Deaths Registration Ordinance (Cap. 174)**

**83. Second Schedule amended**

- (1) Second Schedule, Form 18, Part I—

**Repeal**

“of \$1,000”

**Substitute**

“at level 1”.

- (2) Second Schedule, Form 18, Part II—

**Repeal**

“\$1,000 fine”

**Substitute**

“fine at level 1”.

**Subdivision 4—Marriage Reform (Forms) Regulations (Cap. 178 sub. leg. C)**

**84. Schedule amended**

The Schedule, Form 7—

**Repeal**

“of \$1,000”

**Substitute**

“at level 1”.

**Subdivision 5—Crimes Ordinance (Cap. 200)**

**85. Section 68 amended (interpretation)**

Section 68(1), definition of *customs officer*—

**Repeal**

“關員職系人員”

**Substitute**

“關員級人員”.

**86. Section 78 amended (powers of search, forfeiture, etc.)**

- (1) Section 78(1), Chinese text—

**Repeal**

“關員職系人員”

**Substitute**

“關員級人員”.

- (2) Section 78(2), Chinese text—

**Repeal**

“關員職系人員”

**Substitute**

“關員級人員”.

**87. Section 95 amended (interpretation)**

Section 95, definition of *customs officer*—

**Repeal**

“關員職系人員”

**Substitute**

“關員級人員”.

**88. Section 106 amended (powers of search, forfeiture, etc.)**

- (1) Section 106(1), Chinese text—

**Repeal**

“關員職系人員”

**Substitute**

“關員級人員”。

- (2) Section 106(2), Chinese text—

**Repeal**

“關員職系人員”

**Substitute**

“關員級人員”。

**Subdivision 6—Pension Benefits (Judicial Officers) Ordinance  
(Cap. 401)****89. Section 11B amended (notice for opting for retirement age  
(extension) arrangement)**

Section 11B(2)(c), English text—

**Repeal**

“service”

**Substitute**

“office”。

**Subdivision 7—Pension Benefits (Judicial Officers) Regulations  
(Cap. 401 sub. leg. A)****90. Regulation 4 amended (pension factor)**

- (1) Regulation 4, after “section 22”—

**Add**

“of the Ordinance”。

- (2) Regulation 4, after “sections 7, 12 and 14”—

**Add**

“of the Ordinance”。

**91. Regulation 5 amended (rate of short service gratuity)**

Regulation 5, after “section 36”—

**Add**

“of the Ordinance”。

**92. Regulation 8 amended (pension for service wholly within the  
Group)**

- (1) Regulation 8(2)(b), English text, after “section 15 or 17”—

**Add**

“of the Ordinance”。

- (2) Regulation 8(2)(c), English text, after “section 22(1)—

**Add**

“of the Ordinance”。

**93. Regulation 11 amended (rate of short service gratuity)**

Regulation 11, English text, after “section 36”—

**Add**

“of the Ordinance”。

**94. Regulation 16 amended (emoluments to be taken for computing  
pension benefits)**

- (1) Regulation 16(4)(b), English text, after “section 7(1)(d), (g) or
- 
- (h)—

**Add**

“of the Ordinance”。

- (2) Regulation 16(5), English text, after “section 9(7)—

**Add**

“of the Ordinance”。



- (3) Regulation 16(5)(a), English text, after “section 23(1)(b)(i)”—  
**Add**  
 “of the Ordinance”.
- (4) Regulation 16(5)(b), English text, after “section 23(1)(b)(ii)”—  
**Add**  
 “of the Ordinance”.
- 95. Regulation 17 amended (service which may be taken as pensionable service)**  
 Regulation 17(1), English text—  
**Repeal**  
 “or an option under section 10(1)”  
**Substitute**  
 “, or an option under section 10(1), of the Ordinance”.
- 96. Regulation 18 amended (deemed increase in service where retirement is on medical grounds)**  
 (1) Regulation 18(1), English text, after “section 7(1)(h)”—  
**Add**  
 “of the Ordinance”.
- (2) Regulation 18(2), English text, after “section 21(8) and (9)”—  
**Add**  
 “of the Ordinance”.
- 97. Regulation 21 amended (rates of additional pension on retirement on abolition of office or compulsory retirement)**  
 Regulation 21(1), English text, after “section 17”—  
**Add**

- “of the Ordinance”.
- 98. Regulation 22 amended (rates of additional pension on account of injuries)**  
 (1) Regulation 22(1), English text, after “section 15(1)”—  
**Add**  
 “of the Ordinance”.
- (2) Regulation 22(1), English text, after “section 14”—  
**Add**  
 “of the Ordinance”.

#### Subdivision 8—Amusement Game Centres Ordinance (Cap. 435)

- 99. Section 20 amended (offence in relation to gaining admission to a licensed amusement game centre)**  
 Section 20(3), Chinese text—  
**Repeal**  
 “授權的。”  
**Substitute**  
 “授權的，  
 即為免責辯護。”

#### Subdivision 9—Copyright Ordinance (Cap. 528)

- 100. Section 76 heading amended (performance, showing or playing of works for purposes of club, society, etc.)**  
 Section 76, Chinese text, heading, before “表演”—  
**Add**  
 “為會社、社團等目的而”。

**101. Section 81 amended (free public showing or playing of broadcast or cable programme)**

Section 81(3)(b), Chinese text, after “性質，”—

**Add**

“或是關於宣揚宗教，或推廣教育或社會福利的，”。

**102. Section 233 amended (jurisdiction of Copyright Tribunal)**

Section 233(1)(b), Chinese text—

**Repeal**

“相反權利”

**Substitute**

“反對的權利”。

**103. Section 255 amended (performance, showing or playing of works for purposes of club, society, etc.)**

Section 255(2)(a), Chinese text—

**Repeal**

“關於宣揚宗教，或推廣教育或社會福利”

**Substitute**

“關於宣揚宗教，或推廣教育或社會福利的”。

**Subdivision 10—Private Healthcare Facilities Ordinance (Cap. 633)****104. Section 174 amended (regulation 176 amended (general provisions relating to storage, conveyance and packing of dangerous goods in category 10))**

Section 174(2), Chinese text, before “第 128 條”—

**Add**

“該條例”。

**Division 7—Repeal of Superseded Provisions****Subdivision 1—Supplementary Medical Professions, Midwives Registration and Nurses Registration (Amendment) Ordinance 1985 (67 of 1985)****105. Schedule amended**

- (1) The Schedule, Part I, column 2 opposite to the Miscellaneous Licences Regulations in column 1—

**Repeal item 1.**

- (2) The Schedule, Part I, column 2 opposite to the Miscellaneous Licences Regulations in column 1—

**Repeal item 3 (to the extent of the deletion of “Massage establishment”).**

- (3) The Schedule, Part I, column 2 opposite to the Miscellaneous Licences Regulations in column 1—

**Repeal item 4 (to the extent of the deletion of Form 2).****Subdivision 2—Banking (Amendment) Ordinance 1999 (42 of 1999)****106. Section 6 repealed (section added)**

Section 6—

**Repeal the section.**

**Subdivision 3—Dangerous Goods (Amendment) Ordinance 2002  
(4 of 2002)**

**107. Section 15 repealed (interpretation)**

Section 15—

**Repeal the section.**

**Subdivision 4—Landlord and Tenant (Consolidation)  
(Amendment) Ordinance 2002 (32 of 2002)**

**108. Section 1 amended (short title and commencement)**

Section 1(3)—

**Repeal**

“14, 19,”.

**109. Sections 14 and 19 repealed**

Sections 14 and 19—

**Repeal the sections.**

**Subdivision 5—Merchant Shipping (Safety) (Amendment)  
Ordinance 2009 (10 of 2009)**

**110. Section 2 amended (commencement)**

Section 2(2)—

**Repeal**

“43, 44(1), (2) and (4), 45,”.

**111. Section 43 repealed (interpretation)**

Section 43—

**Repeal the section.**

**112. Section 44 amended (practice of musters and drills)**

Section 44—

**Repeal subsections (1), (2) and (4).**

**113. Section 45 repealed (“國際航行” substituted by “國際航程”)**

Section 45—

**Repeal the section.**

**114. Sections 48 and 49 and cross-headings repealed**

(1) Cross-heading before section 48—

**Repeal the cross-heading.**

(2) Section 48—

**Repeal the section.**

(3) Cross-heading before section 49—

**Repeal the cross-heading.**

(4) Section 49—

**Repeal the section.**

**Subdivision 6—Inland Revenue (Amendment) (No. 2) Ordinance  
2018 (12 of 2018)**

**115. Section 1 amended (short title and commencement)**

(1) Section 1(2)—

**Repeal**

“Subject to subsection (3), this”

**Substitute**

“This”.

(2) Section 1—

**Repeal subsection (3).****116. Section 6 repealed (Schedules 16A and 16B added)**

Section 6—

**Repeal the section.****Division 8—Technical and Other Amendments****Subdivision 1—Matrimonial Causes Ordinance (Cap. 179)****117. Section 5 amended (jurisdiction in judicial separation)**

Section 5(b), after the semicolon—

**Add**

“or”.

**Subdivision 2—Delegation of Powers and Functions (Cap. 283 sub. leg. B)****118. Delegation of Powers and Functions repealed**

Delegation of Powers and Functions—

**Repeal the subsidiary legislation.****Subdivision 3—Small Claims Tribunal Ordinance (Cap. 338)****119. Section 29 amended (powers of Court of First Instance on appeal)**

Section 29(2), Chinese text—

**Repeal everything after paragraph (a)****Substitute**

“(b) 就訟費及開支方面而作出其認為適當的命令，

但不可 ——

- (i) 推翻或更改審裁處就事實問題作出的裁定；或
- (ii) 收取其他證據。”。

**Subdivision 4—Trade Descriptions Ordinance (Cap. 362)****120. Section 26A amended (additional defence (bait advertising))**

Section 26A(a)(ii)(B), Chinese text, after the semicolon—

**Add**

“及”。

**Subdivision 5—Pension Benefits (Judicial Officers) Ordinance (Cap. 401)****121. Section 23 amended (pensionable emoluments)**

Section 23(1)(b)—

**Repeal everything before subparagraph (ii)****Substitute**

- “(b) in the case of an officer to whom section 3(1)(b) applies and whose application under section 9(7) is approved—
    - (i) in respect of his service prior to the material date—
      - (A) 90% of his salary; and
      - (B) 100% of his personal allowance,
- shall be taken as his pensionable emoluments, but not any other emoluments; and”.

**Subdivision 6—Social Workers Registration Ordinance (Cap. 505)**

**122. Section 34 amended (use of title)**

Section 34(6)(b), Chinese text—

**Repeal**

“不會令”

**Substitute**

“並不阻止”。

**Subdivision 7—Estate Agents Ordinance (Cap. 511)**

**123. Section 24 amended (refusal of application for licence or renewal)**

Section 24(1), Chinese text—

**Repeal**

“而提出的申請監管局”

**Substitute**

“而提出的申請：監管局”。

**Subdivision 8—Securities and Futures Ordinance (Cap. 571)**

**124. Schedule 8 amended (Securities and Futures Appeals Tribunal)**

Schedule 8, Part 3, Division 5—

**Repeal**

- |      |   |                                     |
|------|---|-------------------------------------|
| “2A. | A specified decision set out in item 15D of Division 1 of Part 2. | Section 112ZF(4) of this Ordinance. |
|------|---|-------------------------------------|

- |     |   |                                      |
|-----|---|--------------------------------------|
| 2B. | A specified decision set out in item 15E of Division 1 of Part 2. | Section 112ZF(4) of this Ordinance.  |
| 2C. | A specified decision set out in item 15L of Division 1 of Part 2. | Section 112ZJ(5) of this Ordinance.  |
| 2D. | A specified decision set out in item 15M of Division 1 of Part 2. | Section 112ZJ(7) of this Ordinance.” |

**Substitute**

- |      |   |                                      |
|------|---|--------------------------------------|
| “2C. | A specified decision set out in item 15D of Division 1 of Part 2. | Section 112ZF(4) of this Ordinance.  |
| 2D.  | A specified decision set out in item 15E of Division 1 of Part 2. | Section 112ZF(4) of this Ordinance.  |
| 2E.  | A specified decision set out in item 15L of Division 1 of Part 2. | Section 112ZJ(5) of this Ordinance.  |
| 2F.  | A specified decision set out in item 15M of Division 1 of Part 2. | Section 112ZJ(7) of this Ordinance.” |

**Subdivision 9—Competition Ordinance (Cap. 619)**

**125. Section 61 amended (withdrawal of acceptance of commitment)**

Section 61(3), English text—

**Repeal everything after paragraph (a)**

**Substitute**

“(b) subject to subsection (4), the Commission may—

- (i) commence an investigation; or
  - (ii) bring proceedings in the Tribunal,
- with respect to any alleged contravention of the relevant competition rule that has occurred after the date specified in the notice given under subsection (1).”

**Subdivision 10—Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements—Banking Sector) Rules (Cap. 628 sub. leg. B)**

**126. Rule 2 amended (interpretation)**

Rule 2(1), Chinese text, definition of 非資本LAC負債—

**Repeal paragraph (c)**

**Substitute**

- “(c) 符合以下描述的其他負債 ——
- (i) 並非監管資本票據所構成；及
  - (ii) 在欠下有關債務的有關實體清盤時，該負債的位階不高於下述負債 ——
    - (A) (a)段提述的負債；或
    - (B) 符合以下描述的、(b)段提述的負債：該負債獲認可為有資格被計算入某個非香港司法管轄區的規管制度下的、與 LAC 規定相應的規定(但並非憑藉該規管制度下的旨在反映《TLAC 細則清單》第 11 條倒數第二或三段所列出的原則的任何條文)，

但不包括在有關規管制度下，在欠下該債務的有關實體進入處置程序時免於承受損失的任何其他負債；”。

**Explanatory Memorandum**

The purpose of this Bill is to make miscellaneous amendments to various Ordinances.

2. The Bill is divided into 5 parts.

**Part 1**

3. Part 1 sets out the short title and provides for commencement.

**Part 2**

4. Part 2 amends the High Court Ordinance (Cap. 4) to—
- (a) expressly provide that a Justice of Appeal may act as a judge of the Court of First Instance (*CFI*) and a CFI judge may act as an additional judge of the Court of Appeal (*CA*) without physically sitting in the court;
  - (b) extend the use of a 2-Judge bench of the CA to hear and determine—
    - (i) applications for leave to appeal to the Court of Final Appeal against decisions made by the CA consisting of less than 3 Justices of Appeal; and
    - (ii) appeals against the CFI’s decisions to refuse to grant leave to apply for judicial review or to grant such leave on terms pursuant to Order 53, rule 3(4) of the Rules of the High Court (Cap. 4 sub. leg. A);
  - (c) allow parties to an appeal or application before a 2-Judge bench of the CA to apply, and also provide that a 2-Judge bench CA may make an order of its own motion, for the case to be re-argued before a 3-Judge bench of the CA when the 2-Judge bench of the CA cannot reach a unanimous decision; and

- (d) provide for transitional arrangements regarding the applications for leave to appeal and the appeals referred to in subparagraph (b)(i) and (ii) that are duly filed before the commencement date of Part 2 of the Statute Law (Miscellaneous Provisions) Ordinance 2019.

**Part 3**

5. Part 3 amends section 13 of the Interpretation and General Clauses Ordinance (Cap. 1) to provide that references made to an Ordinance may be made according to the title, short title, citation, number or chapter number used in the verified copy of the Ordinance, in addition to those used in the copy printed by the Government Printer. A definition of *verified copies* is also added.

**Part 4**

6. The court in *HKSAR v Kong Hing Agency Ltd* [2008] 1 HKC 462 interpreted the statutory defence containing the phrase “could not with reasonable diligence have (done something)” (*defence*) to refer to an objective test of what a person “could have been reasonably expected to have done in the circumstances”. In other words, the defence refers to a hypothetical situation. While the English text of the defence is relatively standard, there are minor variations in the Chinese text of the defence appearing in various provisions.
7. Part 4 amends the Chinese text of the defence in a number of enactments, for example, by adding “即使” to reflect the meaning of the defence more explicitly.

**Part 5**

8. Part 5 makes miscellaneous amendments of a minor or technical nature to various enactments. The amendments include updating the references to the titles of certain Ordinances, amending cross-

references and updating phrases and expressions to achieve consistency. The enactments amended are—

- (a) the Jury Ordinance (Cap. 3);
- (b) the Money Changers Ordinance (Cap. 34);
- (c) the Pensions (Special Provisions) (Customs Officers) Ordinance (Cap. 35);
- (d) the Apprenticeship (Designation of Trades) (Consolidation) Order (Cap. 47 sub. leg. B);
- (e) the Widows and Orphans Pension Ordinance (Cap. 94);
- (f) the Betting Duty Ordinance (Cap. 108);
- (g) the Public Swimming Pools Regulation (Cap. 132 sub. leg. BR);
- (h) the Births and Deaths Registration Ordinance (Cap. 174);
- (i) the Marriage Reform (Forms) Regulations (Cap. 178 sub. leg. C);
- (j) the Designation of Public Officers Notice (Cap. 178 sub. leg. D);
- (k) the Matrimonial Causes Ordinance (Cap. 179);
- (l) the Crimes Ordinance (Cap. 200);
- (m) the Offences against the Person Ordinance (Cap. 212);
- (n) the Juvenile Offenders Ordinance (Cap. 226);
- (o) the Firearms and Ammunition Ordinance (Cap. 238);
- (p) the Child Care Services Ordinance (Cap. 243);
- (q) the Adoption Ordinance (Cap. 290);
- (r) the Government Lotteries Ordinance (Cap. 334);
- (s) the Small Claims Tribunal Ordinance (Cap. 338);
- (t) the Trade Descriptions Ordinance (Cap. 362);

- (u) the Film Censorship Ordinance (Cap. 392);
- (v) the Pension Benefits (Judicial Officers) Ordinance (Cap. 401);
- (w) the Pension Benefits (Judicial Officers) Regulations (Cap. 401 sub. leg. A);
- (x) the Official Solicitor Ordinance (Cap. 416);
- (y) the Amusement Game Centres Ordinance (Cap. 435);
- (z) the Post-release Supervision of Prisoners Regulation (Cap. 475 sub. leg. A);
- (za) the Merchant Shipping (Seafarers) Ordinance (Cap. 478);
- (zb) the Social Workers Registration Ordinance (Cap. 505);
- (zc) the Justices of the Peace Ordinance (Cap. 510);
- (zd) the Estate Agents Ordinance (Cap. 511);
- (ze) the Copyright Ordinance (Cap. 528);
- (zf) the Mass Transit Railway (Transport Interchange) Bylaw (Cap. 556 sub. leg. D);
- (zg) the Securities and Futures Ordinance (Cap. 571);
- (zh) the Competition Ordinance (Cap. 619);
- (zi) the Financial Institutions (Resolution) (Loss-absorbing Capacity Requirements—Banking Sector) Rules (Cap. 628 sub. leg. B);
- (zj) the Private Healthcare Facilities Ordinance (Cap. 633); and
- (zk) the Travel Industry Ordinance (Cap. 634).

9. Part 5 also repeals the Delegation of Powers and Functions (Cap. 283 sub. leg. B) and the superseded provisions in the following enactments—

- (a) the Supplementary Medical Professions, Midwives Registration and Nurses Registration (Amendment) Ordinance 1985 (67 of 1985);
- (b) the Banking (Amendment) Ordinance 1999 (42 of 1999);
- (c) the Dangerous Goods (Amendment) Ordinance 2002 (4 of 2002);
- (d) the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 (32 of 2002);
- (e) the Merchant Shipping (Safety) (Amendment) Ordinance 2009 (10 of 2009); and
- (f) the Inland Revenue (Amendment) (No. 2) Ordinance 2018 (12 of 2018).