

《釋義及通則條例》  
(第 1 章)

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

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## 《釋義及通則條例》

## (第 1 章)

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## (Cap. 1)

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本條例旨在綜合和修訂有關法例的釋疑、適用範圍、釋義的法律，訂立關於這些事宜的一般條文，對法例和公共文件中的詞語和詞句下定義，訂立關於公職人員、政府或公共機構合約、民事和刑事程序的一般條文，以及為由這些事附帶引起的或與這些事相關的目的和事宜訂立一般條文。

To consolidate and amend the law relating to the construction, application and interpretation of laws, to make general provisions with regard thereto, to define terms and expressions used in laws and public documents, to make general provision with regard to public officers, public contracts and civil and criminal proceedings and for purposes and for matters incidental thereto or connected therewith.

[1966 年 12 月 31 日] 1966 年第 88 號法律公告

[31 December 1966] L.N. 88 of 1966

## 第 I 部

## Part I

### 簡稱及適用範圍

### Short Title and Application

(格式變更——2017 年第 1 號編輯修訂紀錄)

(Format changes—E.R. 1 of 2017)

#### 1. 簡稱

本條例可引稱為《釋義及通則條例》。

#### 1. Short title

This Ordinance may be cited as the Interpretation and General Clauses Ordinance.

#### 2. 適用範圍

- (1) 除非在本條例或其他條例、文書的內容出現用意相反之處，否則本條例的條文適用於本條例、其他現行的條例（不論其實施日期早於或遲於本條例的生效日期）及根據或憑藉這些條例而訂立或發出的文書。
- (1A) 即使另一條例載有本條例某項條文的要旨，亦無含義指本條例的其他條文不適用於該另一條例。（由 1993 年第 89 號第 2 條增補）
- (2) 本條例對“國家”具約束力。（由 1998 年第 26 號第 2 條代替）

#### 2. Application

- (1) Save where the contrary intention appears either from this Ordinance or from the context of any other Ordinance or instrument, the provisions of this Ordinance shall apply to this Ordinance and to any other Ordinance in force, whether such other Ordinance came or comes into operation before or after the commencement of this Ordinance, and to any instrument made or issued under or by virtue of any such Ordinance.
- (1A) The inclusion of the substance of a provision of this Ordinance in another Ordinance does not imply the exclusion of the application of any other provision of this Ordinance to the other Ordinance. (Added 89 of 1993 s. 2)

編輯附註：

並請參閱 1998 年第 26 號第 1(3) 條，而該第 1(3) 條須受第 383 章第 II 部列出的香港人權法案第十二條規限。

(2) This Ordinance shall be binding on the State. *(Replaced 26 of 1998 s. 2)*

Editorial Note:

Please also see s. 1(3) of 26 of 1998, which is subject to article 12 of the Hong Kong Bill of Rights set out in Part II of Cap. 383.

## 2A. 原有法律

- (1) 所有原有法律均須在作出為使它們不抵觸《基本法》及符合香港作為中華人民共和國的特別行政區的地位而屬必要的變更、適應、限制及例外的情況下，予以解釋。
- (2) 在不損害第 (1) 款的一般性原則下，在任何條例中——
  - (a) 關於與香港特別行政區有關的外交事務的法律如與在香港特別行政區實施的任何全國性法律不一致，須在以全國性法律為準，並符合中華人民共和國中央人民政府享有的國際權利和承擔的國際義務的規限下，予以解釋；
  - (b) 任何給予英國或英聯邦其他國家或地區特權待遇的規定，除實施香港與英國或英聯邦其他國家或地區的互惠性安排的規定者外，不再有效；
  - (c) 有關英國駐香港軍隊的權利、豁免及義務的規定，凡不抵觸《基本法》和在《1997 年全國性法律公布 (第 2 號)》(1997 年第 386 號法律公告) 附表 2 中的《中華人民共和國香港特別行政區駐軍法》的規定，繼續有效，並適用於中華人民共和國中央人民政府派駐香港特別行政區的軍隊；(由 2012 年第 2 號第 4 條修訂)
  - (d) 有關英文的法律效力高於中文的規定，須解釋為中文及英文都是正式語文；及
  - (e) 引用的英國法律的規定，如不損害中華人民共和國的主權和不抵觸《基本法》的規定，在香港特別行政

## 2A. Laws previously in force

- (1) All laws previously in force shall be construed with such modifications, adaptations, limitations and exceptions as may be necessary so as not to contravene the Basic Law and to bring them into conformity with the status of Hong Kong as a Special Administrative Region of the People's Republic of China.
- (2) Without prejudice to the generality of subsection (1), in any Ordinance—
  - (a) provisions relating to foreign affairs in respect of the Hong Kong Special Administrative Region which are inconsistent with any national law applied in the Hong Kong Special Administrative Region shall be construed subject to that national law and shall be so construed as to be consistent with the international rights and obligations of the Central People's Government of the People's Republic of China;
  - (b) provisions conferring privileges on the United Kingdom or other Commonwealth countries or territories, other than provisions giving effect to reciprocal arrangements between Hong Kong and the United Kingdom or other Commonwealth countries or territories shall have no further effect;
  - (c) provisions relating to the rights, exemptions and obligations of military forces stationed in Hong Kong by the United Kingdom shall, subject to the provisions



區通過其立法機關對其作出修訂前，作為過渡安排，可繼續參照適用。

- (3) 在所有原有法律中出現的列於附表 8 的字和詞句，須按照該附表解釋。
- (4) 在本條中——

**原有法律** (laws previously in force) 指在緊接 1997 年 7 月 1 日之前屬有效並已被採用為香港特別行政區法律的普通法、衡平法、條例、附屬法例(亦指附屬立法)及習慣法。(編輯修訂——2017 年第 1 號編輯修訂紀錄)

(由 1997 年第 110 號第 5 條增補。由 1998 年第 26 號第 3 條修訂)

of the Basic Law and the Law of the People's Republic of China on the Garrisoning of the Hong Kong Special Administrative Region in Schedule 2 to the Promulgation of National Laws (No. 2) 1997 (L.N. 386 of 1997), continue to have effect and apply to the military forces stationed in the Hong Kong Special Administrative Region by the Central People's Government of the People's Republic of China; (*Amended 2 of 2012 s. 4*)

- (d) provisions relating to the superior legal status of the English language as compared with the Chinese language shall be construed as providing that both the English and Chinese languages are to be official languages; and
- (e) provisions applying any English law may continue to be applicable by reference thereto as a transitional arrangement pending their amendment by the Hong Kong Special Administrative Region through the Legislature thereof, provided that they are not prejudicial to the sovereignty of the People's Republic of China and do not contravene the provisions of the Basic Law.

- (3) In all laws previously in force words and expressions listed in Schedule 8 shall be construed according to that Schedule.

- (4) In this section—

**laws previously in force** (原有法律) means the common law, rules of equity, Ordinances, subsidiary legislation and customary law in force immediately before 1 July 1997 and adopted as laws of the Hong Kong Special Administrative Region.

(*Added 110 of 1997 s. 5. Amended 26 of 1998 s. 3*)



**第 II 部****字和詞句的釋義***(格式變更——2017 年第 1 號編輯修訂紀錄)***3. 詞語和詞句的釋義**

**九龍** (Kowloon) 指附表 4 指明的範圍；

**人、人士、個人、人物、人選** (person) 包括法團或並非法團組織的任何公共機構和團體，即使這些詞語出現於訂出罪行或與罪行有關的條文內，或出現於追收罰款或追收補償的條文內，本定義亦適用；*(由 1995 年第 68 號第 2 條修訂)*

**上訴法庭** (Court of Appeal) 指高等法院上訴法庭；*(由 1998 年第 26 號第 4 條增補)*

**土地審裁處** (Lands Tribunal) 指根據《土地審裁處條例》(第 17 章) 第 3 條設立的土地審裁處；*(由 1974 年第 62 號第 16 條增補)*

**大律師** (counsel) 指獲原訟法庭認許、可以大律師身分執業的人；*(由 1998 年第 26 號第 4 條增補)*

**不動產** (immovable property) 指——

- (a) 土地，不論是否有水淹蓋；
- (b) 土地上的任何產業、權利、權益或地役權；及
- (c) 附連在土地的物件或牢固於任何這類物件上的東西；

**Part II****Interpretation of Words and Expressions***(Format changes—E.R. 1 of 2017)***3. Interpretation of words and expressions**

**act** (作為), when used with reference to an offence or civil wrong, includes a series of acts, an illegal omission and a series of illegal omissions;

**Administrative Appeals Board** (行政上訴委員會) means the Administrative Appeals Board established under the Administrative Appeals Board Ordinance (Cap. 442); *(Added 6 of 1994 s. 32)*

**adult** (成人、成年人) means a person who has attained the age of 18 years; *(Amended 32 of 1990 s. 6)*

**aircraft** (飛機、航空器) means any machine that can derive support in the atmosphere from the reactions of the air;

**alien** (外籍人士) means a person other than a Chinese citizen; *(Added 26 of 1998 s. 4)*

**amend** (修訂) includes repeal, add to or vary and the doing of all or any of such things simultaneously or by the same Ordinance or instrument; *(Amended 89 of 1993 s. 3)*

**arrestable offence** (可逮捕的罪行) means an offence for which the sentence is fixed by law or for which a person may under or by virtue of any law be sentenced to imprisonment for a term exceeding 12 months, and an attempt to commit any such offence; *(Added 30 of 1971 s. 2)*

**Basic Law** (《基本法》) means the Basic Law of the Hong Kong Special Administrative Region; *(Added 26 of 1998 s. 4)*

**中央人民政府在香港特別行政區設立的機構** (Offices set up by the Central People's Government in the Hong Kong Special Administrative Region) 指 ——

- (a) 中央人民政府駐香港特別行政區聯絡辦公室；
- (b) 中華人民共和國外交部駐香港特別行政區特派員公署；及
- (c) 中國人民解放軍駐香港部隊；(由 2009 年第 2 號第 2 條增補)

**中國** (China) 指中華人民共和國；(由 1998 年第 26 號第 4 條增補)

**中國公民** (Chinese citizen, Chinese national) 指根據載於《1997 年全國性法律公布》(1997 年第 379 號法律公告) 附表 4 中的《中華人民共和國國籍法》具有中國國籍的人；(由 1998 年第 26 號第 4 條增補)

**中華人民共和國** (People's Republic of China) 包括台灣、香港特別行政區及澳門；(由 1998 年第 26 號第 4 條增補)

**公共機構** (public body) 包括 ——

- (a) 行政會議；(由 1998 年第 26 號第 37 條修訂)
- (b) 立法會；(由 1998 年第 26 號第 37 條修訂)
- (c) (由 1999 年第 78 號第 7 條廢除)
- (ca) 任何區議會；(由 1981 年第 42 號第 27 條增補)
- (cb) (由 1999 年第 78 號第 7 條廢除)
- (d) 任何其他市區、郊區或城市議局；
- (e) 任何特區政府部門；及 (由 1998 年第 26 號第 37 條修訂)
- (f) 任何由特區政府承擔的事業；(由 1998 年第 26 號第 37 條修訂)

**公印** (public seal) 指香港特別行政區公印；(由 1998 年第 26 號第 4 條增補)

**Chief Executive** (行政長官) means—

- (a) the Chief Executive of the Hong Kong Special Administrative Region;
- (b) a person for the time being assuming the duties of the Chief Executive according to the provisions of Article 53 of the Basic Law; (Added 26 of 1998 s. 4)

**Chief Executive in Council** (行政長官會同行政會議) means the Chief Executive acting after consultation with the Executive Council; (Added 26 of 1998 s. 4)

**Chief Judge** (高等法院首席法官) means the Chief Judge of the High Court; (Added 26 of 1998 s. 4)

**Chief Justice** (終審法院首席法官) means the Chief Justice of the Court of Final Appeal; (Added 26 of 1998 s. 4)

**Chief Secretary for Administration** (政務司司長) means the Chief Secretary for Administration of the Hong Kong Special Administrative Region; (Added 26 of 1998 s. 4)

**China** (中國) means the People's Republic of China; (Added 26 of 1998 s. 4)

**Chinese citizen** and **Chinese national** (中國公民) mean a person who has Chinese nationality under the Nationality Law of the People's Republic of China in Schedule 4 to the Promulgation of National Laws 1997 (L.N. 379 of 1997); (Added 26 of 1998 s. 4)

**Clerk to the Executive Council** (行政會議秘書) includes any person appointed by the Chief Executive to be Deputy Clerk to the Executive Council; (Added 26 of 1998 s. 4)

**Clerk to the Legislative Council** (立法會秘書) means the Secretary General of the Legislative Council Secretariat appointed under section 15(1) of The Legislative Council Commission Ordinance (Cap. 443) and includes the Deputy

**公務員、公務人員** (public servant) 的涵義與公職人員的涵義相同；(由 1998 年第 26 號第 4 條增補)

**公眾、公眾人士** (public) 包括任何一類的公眾人士；

**公眾地方、公眾場所** (public place) 指 ——

- (a) 公眾街道、公眾碼頭或公園；及
- (b) 公眾繳付費用便可進入，或者公眾可以進入或獲准進入的劇院、各類公眾娛樂場所或其他公眾休憩場所；

**公眾假期、公眾假日** (general holiday, public holiday) 指為施行《公眾假期條例》(第 149 章) 而屬公眾假期的日期；(由 1998 年第 26 號第 4 條增補。由 1998 年第 35 號第 5 條修訂)

**公職** (public office) 指任何令任職的人或擔當職務的人成為公職人員的職位或工作；

**公職人員** (public officer) 指任何在特區政府擔任受薪職位的人，不論該職位屬長設或臨時性質；(由 1998 年第 26 號第 4 條增補)

**太平紳士** (justice, justice of the peace) 指根據《太平紳士條例》(第 510 章) 獲委任為香港太平紳士的人；(由 1997 年第 47 號第 10 條修訂)

Secretary General and any Assistant Secretary General of the Legislative Council Secretariat; (*Added 26 of 1998 s. 4*)

**commencement** (生效日期), when used in relation to an Ordinance, or any part or provision thereof, means the date on which the Ordinance, part or provision came or comes into operation; (*Replaced 39 of 1982 s. 2*)

**committed for trial** (交付審判), when used in relation to a person, means—

- (a) committed to prison with a view to his being tried before the Court of First Instance; or
- (b) admitted to bail to appear and stand his trial before the Court of First Instance; (*Added 26 of 1998 s. 4*)

**common law** (普通法) means the common law in force in Hong Kong; (*Added 26 of 1998 s. 4*)

**consul** (領事) and **consular officer** (領事館官員) mean any person, including the head of a consular post, recognized by the competent authority of the receiving state as entrusted in that capacity with the exercise of consular functions;

**contravene** (違反) in relation to any requirement or condition prescribed in any Ordinance or in any grant, permit, licence, lease or authority granted under or by virtue of any Ordinance includes a failure to comply with that requirement or condition;

**counsel** (大律師) means a person admitted before the Court of First Instance to practise as counsel; (*Added 26 of 1998 s. 4*)

**court** (法院、法庭) means any court of the Hong Kong Special Administrative Region of competent jurisdiction; (*Added 26 of 1998 s. 4*)

**Court of Appeal** (上訴法庭) means the Court of Appeal of the High Court; (*Added 26 of 1998 s. 4*)

**文件** (document) 指任何刊物及以字母、字樣、數字或符號的形式，或以超過一種上述的形式在任何物質上書寫、表達或描述的任何資料；

**文書** (instrument) 包括憲報內有法律效力的公布；

**月** (month) 指公曆月；

**刊物** (publication) 指 ——

- (a) 一切書寫和印刷的物品；
- (b) 可藉機械、電子或電力方法來產生、重複產生、表達或傳遞語言文字或意念的任何唱片、紀錄帶、導線、穿孔卷帶、電影片膠卷或其他裝置；
- (c) 任何東西，不論其性質是否有如上述，凡載有可見物象，或由於其形態、形狀或以任何形式，可以產生、重複產生、表達或傳遞語言文字或意念者；及
- (d) (a)、(b) 和 (c) 段定義所指刊物的每一份製成本和複製本；

**可循簡易程序審訊** (triable summarily) 指可由裁判官按照《裁判官條例》(第 227 章) 審訊；

**可逮捕的罪行** (arrestable offence) 指由法律規限固定刑罰的罪行，或根據、憑藉法例對犯者可處超過 12 個月監禁的罪行，亦指犯任何這類罪行的企圖；(由 1971 年第 30 號第 2 條增補)

**Court of Final Appeal** (終審法院) means the Hong Kong Court of Final Appeal established by section 3 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484); (*Added 79 of 1995 s. 50*)

**Court of First Instance** (原訟法庭) means the Court of First Instance of the High Court; (*Added 26 of 1998 s. 4*)

**Crown lease** (官契) means any lease granted by the Crown before 1 July 1997, any instrument whereby the term of a Crown lease may have been extended or the provisions thereof varied and any agreement for a Crown lease; (*Added 26 of 1998 s. 4*)

**department** (部門), in relation to the Government, includes bureau; (*Added 26 of 1998 s. 4*)

**District Council** (區議會) has the meaning assigned to it by the District Councils Ordinance (Cap. 547); (*Replaced 8 of 1999 s. 89*)

**District Court** (區域法院) means the District Court of the Hong Kong Special Administrative Region; (*Added 26 of 1998 s. 4*)

**District Judge** (區域法院法官) means a judge of the District Court; (*Added 26 of 1998 s. 4*)

**document** (文件) means any publication and any matter written, expressed or described upon any substance by means of letters, characters, figures or marks, or by more than one of these means;

**enactment** (成文法則) has the same meaning as Ordinance; (*Added 26 of 1998 s. 4*)

**Executive Council** (行政會議) means the Executive Council of the Hong Kong Special Administrative Region; (*Added 26 of 1998 s. 4*)

**export** (輸出、出口) means to take out or cause to be taken out of Hong Kong by air, land or water; (*Added 26 of 1998 s. 4*)



**外交部** (Ministry of Foreign Affairs) 指中央人民政府外交部；(由 1998 年第 26 號第 4 條增補)

**外國** (foreign country, foreign state) 指中華人民共和國以外的國家；(由 1998 年第 23 號第 2 條增補)

**外幣** (foreign currency) 指香港貨幣以外的任何貨幣；(由 1998 年第 23 號第 2 條增補)

**外籍人士** (alien) 指並非中國公民的人；(由 1998 年第 26 號第 4 條增補)

**幼年人** (infant)、**未成年人** (minor) 指未滿 18 歲的人；(由 1990 年第 32 號第 6 條修訂)

**生效日期** (commencement)，與條例或條例的任何部分、條文有關時，指該條例或部分條例、條文實施的日期；(由 1982 年第 39 號第 2 條代替)

**立法會** (Legislative Council) ——

- (a) 指香港特別行政區立法會；
- (b) 在臨時立法會存在之時，指臨時立法會；(由 1998 年第 26 號第 4 條增補)

**立法會秘書** (Clerk to the Legislative Council) 指根據《立法會行政管理委員會條例》(第 443 章) 第 15(1) 條委任的立法會秘書處秘書長，並包括立法會秘書處副秘書長及任何助理秘書長；(由 1998 年第 26 號第 4 條增補)

**交付審判** (committed for trial) 就某人而言，指 ——

- (a) 將該人押交監獄以便在原訟法庭席前受審；或
- (b) 准該人保釋，但須在原訟法庭出庭在該法庭席前接受審訊；(由 1998 年第 26 號第 4 條增補)

**Financial Secretary** (財政司司長) means the Financial Secretary of the Hong Kong Special Administrative Region and the Secretary for Financial Services and the Treasury; (Added 26 of 1998 s. 4. Amended L.N. 106 of 2002)

**financial year** (財政年度) means the period from 1 April in any year to 31 March in the immediately succeeding year, both days inclusive;

**foreign country** and **foreign state** (外國) mean a country or state other than the People's Republic of China; (Added 23 of 1998 s. 2)

**foreign currency** (外幣) means any currency other than Hong Kong currency; (Added 23 of 1998 s. 2)

**full age** (成年) means the age of 18 years; (Added 32 of 1990 s. 6)

**Gazette** (憲報) means—

- (a) the Government of the Hong Kong Special Administrative Region Gazette and any supplement thereto;
- (b) the Gazette published by the Administration on or between 12 October 1945 and 1 May 1946;
- (c) the Government of the Hong Kong Special Administrative Region Gazette Extraordinary;
- (d) the Hong Kong Government Gazette and any supplement thereto published before 1 July 1997;
- (e) any Special Gazette or Gazette Extraordinary published before 1 July 1997; (Added 26 of 1998 s. 4)

**general holiday** and **public holiday** (公眾假期、公眾假日) mean any day which is a general holiday for the purposes of the General Holidays Ordinance (Cap. 149); (Added 26 of 1998 s. 4. Amended 35 of 1998 s. 5)

**在香港實施的全國性法律** (national law applying in Hong Kong) 指依據《基本法》第十八條的條文在香港實施的全國性法律；(由 1998 年第 26 號第 4 條增補)

**字、文字、語言文字** (words) 包括數字及符號；

**年** (year) 指公曆年；

**成人、成年人** (adult) 指年滿 18 歲的人；(由 1990 年第 32 號第 6 條修訂)

**成文法則** (enactment) 的涵義與條例的涵義相同；(由 1998 年第 26 號第 4 條增補)

**成年** (full age) 指年滿 18 歲；(由 1990 年第 32 號第 6 條增補)

**行政上訴委員會** (Administrative Appeals Board) 指根據《行政上訴委員會條例》(第 442 章) 設立的行政上訴委員會；(由 1994 年第 6 號第 32 條增補)

**行政長官** (Chief Executive) 指——

- (a) 香港特別行政區行政長官；
- (b) 依照《基本法》第五十三條在當其時代理行政長官職務的人；(由 1998 年第 26 號第 4 條增補)

**行政長官會同行政會議** (Chief Executive in Council) 指在徵詢行政會議的意見後行事的行政長官；(由 1998 年第 26 號第 4 條增補)

**行政會議** (Executive Council) 指香港特別行政區行政會議；(由 1998 年第 26 號第 4 條增補)

**general revenue** (政府一般收入) means the general revenue of the Hong Kong Special Administrative Region; (*Added 26 of 1998 s. 4*)

**Government** (特區政府) means the Government of the Hong Kong Special Administrative Region; (*Added 26 of 1998 s. 4*)

**Government lease** (政府租契) means a lease of land granted by or on behalf of the Government, and includes—

- (a) an instrument whereby—
  - (i) the term of the lease has been extended; or
  - (ii) the provisions of the lease have been varied;
- (b) an agreement for such a lease; and
- (c) a Crown lease; (*Added 26 of 1998 s. 4*)

**Government Printer** (政府印務局) means—

- (a) the Government Logistics Department of the Hong Kong Special Administrative Region and any other printer authorized by or on behalf of the Chief Executive to print any Ordinance or any other document of the Government; (*Amended L.N. 164 of 2003*)
- (b) in relation to any Ordinance or any other document printed before 1 July 1997, the Government Printer within the meaning of this section as in force immediately before that date; (*Added 26 of 1998 s. 4*)

**harbour** (海港) means the waters of Hong Kong within the boundaries specified in Schedule 3; (*Added 26 of 1998 s. 4*)

**health officer** (衛生主任) means—

- (a) the Director, Deputy Director and Assistant Director of Health;
- (b) any person appointed as a health officer by the Chief Executive; and

**行政會議秘書** (Clerk to the Executive Council) 包括獲行政長官委任為行政會議副秘書的人；(由 1998 年第 26 號第 4 條增補)

**佔用** (occupy) 包括使用、住用、管有或享用“佔用”兩字所指的 land 或處所，但只以傭工身分，或僅以照料、保管或管理該 land 或處所為目的而作該項使用、住用、管有或享用者，則屬例外；

**作為** (act)，用於罪行或民事過失時，包括一連串作為、任何違法的不作為和一連串違法的不作為；

**周日** (weekday, week-day) 指星期日以外的任何日子；(由 1995 年第 68 號第 15 條增補)

**姓、姓氏** (surname) 包括宗親或家族的姓氏；

**官契** (Crown lease) 指任何在 1997 年 7 月 1 日之前由官方批給的租契，任何藉以延展官契年期或更改官契條文的文書，以及任何同意訂立官契的協議；(由 1998 年第 26 號第 4 條增補)

**法定語文** (official languages) 指中文和英文，而凡提述一種“法定語文”時，須視乎情況而解釋為中文或英文；(由 1987 年第 18 號第 2 條增補)

(c) any person for the time being performing the duties of a health officer under any Ordinance; (*Added 26 of 1998 s. 4*)

**High Court** (高等法院) means the High Court of the Hong Kong Special Administrative Region established by section 3 of the High Court Ordinance (Cap. 4); (*Added 26 of 1998 s. 4*)

**HKSAR** (特區) means the Hong Kong Special Administrative Region of the People's Republic of China; (*Added 26 of 1998 s. 4*)

**Hong Kong** (香港) means the Hong Kong Special Administrative Region; (*Added 26 of 1998 s. 4*)

**Hong Kong permanent resident** and **permanent resident of the Hong Kong Special Administrative Region** (香港永久性居民、香港特別行政區永久性居民) mean a person who belongs to a class or description of persons specified in Schedule 1 to the Immigration Ordinance (Cap. 115); (*Added 26 of 1998 s. 4*)

**Hong Kong Special Administrative Region** (香港特別行政區) means the Hong Kong Special Administrative Region of the People's Republic of China, the geographical extent of which is the land and sea specified or referred to in Schedule 2; (*Added 26 of 1998 s. 4*)

**immovable property** (不動產) means—

- (a) land, whether covered by water or not;
- (b) any estate, right, interest or easement in or over any land; and
- (c) things attached to land or permanently fastened to anything attached to land;

**import** (輸入、進口) means to bring or cause to be brought into Hong Kong by air, land or water; (*Added 26 of 1998 s. 4*)

**法定聲明** (statutory declaration) ——

- (a) 如在香港作出，指根據已廢除的《法定聲明條例》或根據《宣誓及聲明條例》(第 11 章)作出的聲明；
- (b) 如在其他普通法適用的地區作出，指在該地區的太平紳士、公證人或其他根據該地區當其時施行的法律條文而有權在該地區監理或接受聲明的人面前作出的聲明；
- (c) 如在中華人民共和國大陸作出，指在公證人依據其公證職能的情況下，在該公證人面前作出的聲明；
- (d) 如在任何其他地方作出，指在中華人民共和國領事或在該地方根據當其時施行的法規而有權監理或接受聲明的人面前作出的聲明；(由 1998 年第 26 號第 4 條增補)

**法官** (judge) 指終審法院首席法官、終審法院法官、高等法院首席法官、上訴法庭法官、原訟法庭法官、原訟法庭特委法官及原訟法庭暫委法官；(由 1998 年第 26 號第 4 條增補)

**法律、法例、法** (law) 指當其時在香港施行的、在香港具有立法效力的、實施範圍擴及香港的或適用於香港的法律、法例；(由 1998 年第 26 號第 4 條增補)

**法院、法庭** (court) 指任何具司法管轄權的香港特別行政區法院、法庭；(由 1998 年第 26 號第 4 條增補)

**infant** (幼年人) and **minor** (未成年人) mean a person who has not attained the age of 18 years; (*Amended 32 of 1990 s. 6*)

**instrument** (文書) includes any publication in the Gazette having legal effect;

**Joint Declaration** (聯合聲明) means the Sino-British Joint Declaration on the Question of Hong Kong done at Beijing on 19 December 1984; (*Added 26 of 1998 s. 4*)

**judge** (法官) means the Chief Justice, a judge of the Court of Final Appeal, the Chief Judge, a Justice of Appeal, a judge of the Court of First Instance, a recorder of the Court of First Instance and a deputy judge of the Court of First Instance; (*Added 26 of 1998 s. 4*)

**judge of the Court of Final Appeal** (終審法院法官) means the Chief Justice, a permanent judge and a non-permanent judge of the Court of Final Appeal; (*Added 79 of 1995 s. 50. Amended 26 of 1998 s. 37*)

**justice** and **justice of the peace** (太平紳士) mean a person appointed to be a justice of the peace under the Justices of the Peace Ordinance (Cap. 510); (*Amended 47 of 1997 s. 10*)

**Kowloon** (九龍) means the area specified in Schedule 4;

**Lands Tribunal** (土地審裁處) means the Lands Tribunal established under section 3 of the Lands Tribunal Ordinance (Cap. 17); (*Added 62 of 1974 s. 16*)

**law** (法律、法例、法) means any law for the time being in force in, having legislative effect in, extending to, or applicable in, Hong Kong; (*Added 26 of 1998 s. 4*)

**Legislative Council** (立法會) means—

- (a) the Legislative Council of the Hong Kong Special Administrative Region;
- (b) the Provisional Legislative Council during its existence; (*Added 26 of 1998 s. 4*)



**法院規則** (rules of court), 與法院有關時, 指由主管當局訂立的規則, 而該主管當局是當時有權力訂立規則及命令以規限該法院的慣例及程序者;

**附屬法例、附屬法規、附屬立法** (subsidiary legislation, subordinate legislation) 指根據或憑藉任何條例訂立並具有立法效力的文告、規則、規例、命令、決議、公告、法院規則、附例或其他文書; (由 1998 年第 26 號第 4 條增補)

**律政司司長** (Secretary for Justice) 指香港特別行政區律政司司長; (由 1998 年第 26 號第 4 條增補)

**律師** (solicitor) 指獲原訟法庭認許、可以律師身分執業的人; (由 1998 年第 26 號第 4 條增補)

**政府一般收入** (general revenue) 指香港特別行政區政府一般收入; (由 1998 年第 26 號第 4 條增補)

**政府印務局** (Government Printer) 指 ——

- (a) 香港特別行政區政府物流服務署, 亦指由行政長官或他人代行政長官授權印刷條例或其他政府文件的其他印刷者; (由 2003 年第 164 號法律公告修訂)
- (b) (就 1997 年 7 月 1 日之前印刷的任何條例或任何其他文件而言) 在緊接該日期前當時有效的本條所指的政府印務局; (由 1998 年第 26 號第 4 條增補)

**政府租契** (Government lease) 指由特區政府或他人代特區政府批給的土地租契, 並包括 ——

- (a) 任何藉以 ——
  - (i) 延展該租契年期的文書; 或
  - (ii) 更改該租契條文的文書;
- (b) 同意訂立該等租契的協議; 及
- (c) 官契; (由 1998 年第 26 號第 4 條增補)

**政務司司長** (Chief Secretary for Administration) 指香港特別行政區政務司司長; (由 1998 年第 26 號第 4 條增補)

**magistrate** (裁判官) means any person appointed to be a permanent or special magistrate under the Magistrates Ordinance (Cap. 227); (Replaced 47 of 1997 s. 10)

**master** (船長), when used with reference to a vessel, means the person (except a pilot) having for the time being command or charge of the vessel;

**medical practitioner** (醫生), **registered medical practitioner** (註冊醫生) and any words importing that a person is recognized by any Ordinance to be a medical practitioner in Hong Kong or a member of the medical profession in Hong Kong, mean a person duly registered as, or deemed to be registered as, a medical practitioner under the Medical Registration Ordinance (Cap. 161);

**Ministry of Foreign Affairs** (外交部) means the Ministry of Foreign Affairs of the Central People's Government; (Added 26 of 1998 s. 4)

**month** (月) means calendar month;

**movable property** (動產) means property of every description except immovable property;

**national law applying in Hong Kong** (在香港實施的全國性法律) means a national law applied in Hong Kong pursuant to the provisions of Article 18 of the Basic Law; (Added 26 of 1998 s. 4)

**New Kowloon** (新九龍) means the area specified in Schedule 5;

**New Territories** (新界) means the area specified or referred to in Schedule 5A; (Added 26 of 1998 s. 4)

**oath** (誓言) and **affidavit** (誓章) include, in the case of persons allowed or required by law to affirm instead of swearing, affirmation; and **swear** (宣誓) in the like case includes affirm;

**occupy** (佔用) includes use, inhabit, be in possession of or enjoy the land or premises to which the word relates, otherwise than

**訂明** (prescribed)、**訂定** (provided)，用於條例內或用於條例方面時，指由該條例或由根據該條例訂立的附屬法例所訂明或訂定；

**飛機、航空器** (aircraft) 指任何可憑空氣的反作用而在大氣中獲得支承力的機器；

**香港** (Hong Kong) 指香港特別行政區；(由 1998 年第 26 號第 4 條增補)

**香港水域** (waters of Hong Kong, Hong Kong waters) 指在香港特別行政區範圍內的所有水域，不論該水域是否可供船隻通航；(由 1998 年第 26 號第 4 條增補)

**香港永久性居民、香港特別行政區永久性居民** (Hong Kong permanent resident, permanent resident of the Hong Kong Special Administrative Region) 指屬《入境條例》(第 115 章) 附表 1 指明的界別或種類的人；(由 1998 年第 26 號第 4 條增補)

**香港特別行政區** (Hong Kong Special Administrative Region) 指中華人民共和國香港特別行政區，其地理範圍為附表 2 指明或提述的陸地及海域；(由 1998 年第 26 號第 4 條增補)

**修訂** (amend) 包括廢除、增補或更改，亦指同時進行，或以同一條例或文書進行上述全部或其中任何事項；(由 1993 年第 89 號第 3 條修訂)

**原訟法庭** (Court of First Instance) 指高等法院原訟法庭；(由 1998 年第 26 號第 4 條增補)

**書寫** (writing)、**印刷** (printing) 包括書寫、印刷、平版印刷、攝影、打字及任何其他可見形式表現文字的方法；

**海港** (harbour) 指在附表 3 指明的界線之內的香港水域；(由 1998 年第 26 號第 4 條增補)

**特區** (HKSAR) 指中華人民共和國香港特別行政區；(由 1998 年第 26 號第 4 條增補)

as a mere servant or for the mere purpose of the care, custody or charge thereof;

**offence** (罪、罪行、罪項、犯法行為) includes any crime and any contravention or other breach of, or failure to comply with, any provision of any law, for which a penalty is provided; (Added 26 of 1998 s. 4)

**Offices set up by the Central People's Government in the Hong Kong Special Administrative Region** (中央人民政府在香港特別行政區設立的機構) means—

- (a) the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region;
- (b) the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong Special Administrative Region; and
- (c) the Hong Kong Garrison of the Chinese People's Liberation Army; (Added 2 of 2009 s. 2)

**official languages** (法定語文) means the English language and the Chinese language, and a reference to an "official language" shall be construed as a reference to the English language or the Chinese language as the case may be; (Added 18 of 1987 s. 2)

**order paper** (議事程序表), in relation to the Legislative Council, includes agenda; (Added 26 of 1998 s. 4)

**Ordinance** (條例) means—

- (a) any Ordinance enacted by the Legislative Council;
- (b) any Ordinance adopted by virtue of Article 160 of the Basic Law as a law of the Hong Kong Special Administrative Region;
- (c) any subsidiary legislation made under any such Ordinance except any such subsidiary legislation which

**特區政府** (Government) 指香港特別行政區政府；(由 1998 年第 26 號第 4 條增補)

**財政司司長** (Financial Secretary) 指香港特別行政區財政司司長，亦指財經事務及庫務局局長；(由 1998 年第 26 號第 4 條增補。由 2002 年第 106 號法律公告修訂)

**財政年度** (financial year) 指由任何一年的 4 月 1 日至翌年 3 月 31 日 (包括該兩天在內) 的期間；

**財產** (property) 包括 ——

- (a) 金錢、貨物、法據動產和土地；及
- (b) 由 (a) 段下定義的財產所產生或附帶的義務、地役權以及各類產業、利益和利潤，不論是現存的或將來的、既得的或待確定的；

**高等法院** (High Court) 指《高等法院條例》(第 4 章) 第 3 條所設立的香港特別行政區高等法院；(由 1998 年第 26 號第 4 條增補)

**高等法院司法常務官** (Registrar of the High Court) 指高等法院司法常務官，亦指任何高等法院高級副司法常務官、副司法常務官或助理司法常務官；(由 1998 年第 26 號第 4 條增補。由 2005 年第 10 號第 162 條修訂)

**高等法院首席法官** (Chief Judge) 指香港特別行政區高等法院首席法官；(由 1998 年第 26 號第 4 條增補)

**動產** (movable property) 指不動產以外的各類財產；

**區域法院** (District Court) 指香港特別行政區區域法院；(由 1998 年第 26 號第 4 條增補)

**區域法院法官** (District Judge) 指區域法院的法官；(由 1998 年第 26 號第 4 條增補)

**區議會** (District Council) 具有《區議會條例》(第 547 章) 給予該詞的涵義；(由 1999 年第 8 號第 89 條代替)

“**國家**”(State) 只包括 ——

- (a) 中華人民共和國主席；

has pursuant to Article 160 of the Basic Law been declared to be in contravention of the Basic Law; and

- (d) any provision or provisions of any such Ordinance or subsidiary legislation; (*Added 26 of 1998 s. 4*)

**People's Republic of China** (中華人民共和國) includes Taiwan, the Hong Kong Special Administrative Region and Macau; (*Added 26 of 1998 s. 4*)

**per cent** (釐、百分之), when used in relation to a rate of interest payable in any circumstances, means the rate of interest specified payable in respect of a year, unless it is expressly provided that it is payable in respect of any other period;

**person** (人、人士、個人、人物、人選) includes any public body and any body of persons, corporate or unincorporate, and this definition shall apply notwithstanding that the word “person” occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation;

**pier** (碼頭) includes every quay, wharf or jetty of whatever description connected to and having direct access to the shore and used or intended to be used for the purposes of a pier, quay, wharf or jetty;

**police officer** (警務人員) and terms or expressions referring to ranks in the Hong Kong Police Force shall bear the meanings respectively assigned to them by the Police Force Ordinance (Cap. 232); (*Added 26 of 1998 s. 4*)

**power** (權、權力) includes any privilege, authority and discretion;

**prescribed** (訂明) and **provided** (訂定), when used in or with reference to any Ordinance, mean prescribed or provided by that Ordinance or by subsidiary legislation made under that Ordinance;

- (b) 中央人民政府；
- (c) 香港特別行政區政府；
- (d) 行使根據《基本法》由中央人民政府負責行使的職能的中華人民共和國中央當局；
- (e) 符合以下說明——
  - (i) 代中央人民政府行使其行政職能，或行使根據《基本法》由中央人民政府負責行使的職能；及
  - (ii) 沒有行使商業職能，
 並且是在獲轉授的權力以及獲轉授的職能範圍內行事的中央人民政府的附屬機關；及
- (f) 符合以下說明——
  - (i) 代 (d) 段提述的中華人民共和國中央當局行使中央人民政府的行政職能，或行使根據《基本法》由中央人民政府負責行使的職能；及
  - (ii) 沒有行使商業職能，
 並且是在獲轉授的權力以及獲轉授的職能範圍內行事的該等中央當局的附屬機關；(由 1998 年第 26 號第 4 條增補)

**《基本法》(Basic Law)** 指《中華人民共和國香港特別行政區基本法》；(由 1998 年第 26 號第 4 條增補)

**條例 (Ordinance)** 指——

- (a) 由立法會制定的條例；
- (b) 憑藉《基本法》第一百六十條採用為香港特別行政區法律的條例；
- (c) 根據任何上述條例訂立的附屬法例，但依據《基本法》第一百六十條宣布為同《基本法》抵觸的任何該等附屬法例除外；及
- (d) 任何上述條例或附屬法例的任何條文；(由 1998 年第 26 號第 4 條增補)

**prison** (獄、監獄) means any place or building or portion of a building set apart for the purpose of a prison under any Ordinance relating to prisons;

**property** (財產) includes—

- (a) money, goods, choses in action and land; and
- (b) obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as defined in paragraph (a) of this definition;

**Provisional Legislative Council** (臨時立法會) means the Provisional Legislative Council of the Hong Kong Special Administrative Region; (Added 26 of 1998 s. 4)

**public** (公眾、公眾人士) includes any class of the public;

**publication** (刊物) means—

- (a) all written and printed matter;
- (b) any record, tape, wire, perforated roll, cinematograph film or other contrivance by means of which any words or ideas may be mechanically, electronically or electrically produced, reproduced, represented or conveyed;
- (c) anything whether of a similar nature to the foregoing or not, containing any visible representation, or by its form, shape, or in any manner, capable of producing, reproducing, representing or conveying words or ideas; and
- (d) every copy and reproduction of any publication as defined in paragraphs (a), (b) and (c) of this definition;

**public body** (公共機構) includes—

- (a) the Executive Council;
- (b) the Legislative Council;



**條約** (treaty) 指國家之間訂立的條約、公約、協議或協定，以及任何附連於該等條約、公約、協議或協定的議定書或聲明，或獨立於該等條約、公約、協議或協定之外但卻提述該等條約、公約、協議或協定的議定書或聲明；(由 1998 年第 26 號第 4 條增補)

**深圳灣口岸港方口岸區** (Shenzhen Bay Port Hong Kong Port Area) 指《深圳灣口岸港方口岸區條例》(第 591 章) 第 3 條所宣布的深圳灣口岸港方口岸區；(由 2007 年第 4 號第 16 條增補)

**終審法院** (Court of Final Appeal) 指由《香港終審法院條例》(第 484 章) 第 3 條設立的香港終審法院；(由 1995 年第 79 號第 50 條增補)

**終審法院法官** (judge of the Court of Final Appeal) 指終審法院首席法官、終審法院常任法官及終審法院非常任法官；(由 1995 年第 79 號第 50 條增補。由 1998 年第 26 號第 37 條修訂)

**終審法院首席法官** (Chief Justice) 指香港特別行政區終審法院首席法官；(由 1998 年第 26 號第 4 條增補)

**船、船舶** (ship) 包括各類非全靠槳力推進而用於航行的船隻；

**船長** (master) 指當時指揮或掌管船隻的人，但領港員除外；

**船隻** (vessel) 指任何大小船艇，以及各類用於航行的船隻；

**規例** (regulations) 的涵義與附屬法例、附屬法規及附屬立法的涵義相同；(由 1998 年第 26 號第 4 條增補)

**部門** (department) 就特區政府而言，包括政策局；(由 1998 年第 26 號第 4 條增補)

**普通法** (common law) 指在香港施行的普通法；(由 1998 年第 26 號第 4 條增補)

**登記、註冊** (registered)，用於文件時，指根據任何適用於登記或註冊該類文件的法律條文而登記或註冊；

**街、街道** (street) 指 ——

(c) *(Repealed 78 of 1999 s. 7)*

(ca) any District Council; *(Added 42 of 1981 s. 27. Amended 8 of 1999 s. 89)*

(cb) *(Repealed 78 of 1999 s. 7)*

(d) any other urban, rural or municipal council;

(e) any department of the Government; and

(f) any undertaking by or of the Government;

**public office** (公職) means any office or employment the holding or discharging of which by a person would constitute that person a public officer;

**public officer** (公職人員) means any person holding an office of emolument under the Government, whether such office be permanent or temporary; *(Added 26 of 1998 s. 4)*

**public place** (公眾地方、公眾場所) means—

(a) any public street or pier, or any public garden; and

(b) any theatre, place of public entertainment of any kind, or other place of general resort, admission to which is obtained by payment or to which the public have or are permitted to have access;

**public seal** (公印) means the public seal of the Hong Kong Special Administrative Region; *(Added 26 of 1998 s. 4)*

**public servant** (公務員、公務人員) has the same meaning as public officer; *(Added 26 of 1998 s. 4)*

**registered** (登記、註冊), when used with reference to a document, means registered under the provisions of any law applicable to the registration of such a document;

**Registrar of the High Court** (高等法院司法常務官) means the Registrar of the High Court and any Senior Deputy Registrar, Deputy Registrar or Assistant Registrar of the High Court; *(Added 26 of 1998 s. 4. Amended 10 of 2005 s. 162)*

- (a) 任何公路、街、街道、路、道路、橋樑、大道、廣場、坊、短巷、巷、里、馬道、行人徑、通道或隧道；及
- (b) 任何由公眾使用或公眾常到，又或公眾可以進入或獲准進入的露天地方，不論該地方是否位於屬政府租契標的土地上；(由 1998 年第 26 號第 4 條增補)

**裁判官** (magistrate) 指根據《裁判官條例》(第 227 章) 獲委任為常任裁判官或特委裁判官的人；(由 1997 年第 47 號第 10 條代替)

**新九龍** (New Kowloon) 指附表 5 指定的範圍；

**新界** (New Territories) 指附表 5A 指明或提述的範圍；(由 1998 年第 26 號第 4 條增補)

**歲、年歲、年齡** (years of age) 及其他近義詞語，當用於指人的歲數時，指由出生日期起計的歲數；(由 1998 年第 26 號第 4 條增補)

**罪、罪行、罪項、犯法行為** (offence) 包括任何刑事罪，和違反、觸犯、不遵守任何訂有罰則的法律條文；(由 1998 年第 26 號第 4 條增補)

**路、道路** (road) 的涵義與街、街道的涵義相同；(由 1998 年第 26 號第 4 條增補)

**違反** (contravene)，用於條例所訂明的規定或條件時，或用於根據、憑藉條例而發給的批予、許可證、牌照、租約或權限文件之中所訂明的規定或條件時，包括不遵守該規定或條件；

**獄、監獄** (prison) 指根據任何與監獄有關的條例而關作監獄用途的地方、建築物或建築物的一部分；

**誓言** (oath)、**誓章** (affidavit)，對法例准許或規定以非宗教式宣誓代替宗教式宣誓的人來說，包括非宗教式誓詞；而**宣誓** (swear) 在同樣情形下包括非宗教式宣誓；

**regulations** (規例) has the same meaning as subsidiary legislation and subordinate legislation; (Added 26 of 1998 s. 4)

**repeal** (廢除) includes rescind, revoke, cancel or replace;

**road** (路、道路) has the same meaning as street; (Added 26 of 1998 s. 4)

**rules of court** (法院規則), when used in relation to any court, means rules made by the authority having for the time being power to make rules and orders regulating the practice and procedure of such court;

**Secretary for Justice** (律政司司長) means the Secretary for Justice of the Hong Kong Special Administrative Region; (Added 26 of 1998 s. 4)

**sell** (賣、售賣、出售) includes exchange and barter;

**Shenzhen Bay Port Hong Kong Port Area** (深圳灣口岸港方口岸區) means the Shenzhen Bay Port Hong Kong Port Area declared by section 3 of the Shenzhen Bay Port Hong Kong Port Area Ordinance (Cap. 591); (Added 4 of 2007 s. 16)

**ship** (船、船舶) includes every description of vessel used in navigation not exclusively propelled by oars;

**sign** (簽名、簽署) includes, in the case of a person unable to write, the affixing or making of a seal, mark, thumbprint or chop;

**sitting**, in relation to the Legislative Council, includes meeting; (Added 26 of 1998 s. 4)

**solicitor** (律師) means a person admitted before the Court of First Instance to practise as a solicitor; (Added 26 of 1998 s. 4)

**State** (“國家”) includes only—

- (a) the President of the People’s Republic of China;
- (b) the Central People’s Government;

**領事** (consul)、**領事館官員** (consular officer) 指任何獲接待國主管當局承認為以該身分受託行使領事職能的人，包括領事館的首長在內；

**廢除** (repeal) 包括刪除、撤銷、取消或代替；

**碼頭** (pier) 包括與岸連接及可直達岸上的各類埠頭、貨運碼頭或突堤式碼頭，用作或擬用作碼頭、埠頭、貨運碼頭或突堤式碼頭者；

**賣、售賣、出售** (sell) 包括交換及以物相易；

**憲報** (Gazette) 指 ——

- (a) 《香港特別行政區政府憲報》及其任何副刊；
- (b) 在 1945 年 10 月 12 日至 1946 年 5 月 1 日期間 (包括首尾兩天) 由當時的軍政府出版的憲報；
- (c) 《香港特別行政區政府憲報號外》；
- (d) 在 1997 年 7 月 1 日之前出版的《香港政府憲報》及其任何副刊；
- (e) 在 1997 年 7 月 1 日之前出版的《特別憲報》或《憲報號外》；(由 1998 年第 26 號第 4 條增補)

**衛生主任** (health officer) 指 ——

- (a) 衛生署署長、副署長、以及助理署長；
- (b) 獲行政長官委任為衛生主任的人；及
- (c) 當其時根據任何條例執行衛生主任職責的人；(由 1998 年第 26 號第 4 條增補)

**輸入、進口** (import) 指以空運方式或循陸路或水路而運入香港，或導致以空運方式或循陸路或水路而運入香港；(由 1998 年第 26 號第 4 條增補)

**輸出、出口** (export) 指以空運方式或循陸路或水路而從香港運出，或導致以空運方式或循陸路或水路而從香港運出；(由 1998 年第 26 號第 4 條增補)

- (c) the Government of the Hong Kong Special Administrative Region;
  - (d) the Central Authorities of the People's Republic of China that exercise functions for which the Central People's Government has responsibility under the Basic Law;
  - (e) subordinate organs of the Central People's Government that—
    - (i) on its behalf, exercise executive functions of the Central People's Government or functions for which the Central People's Government has responsibility under the Basic Law; and
    - (ii) do not exercise commercial functions, when acting within the scope of the delegated authority and the delegated functions of the subordinate organ concerned; and
  - (f) subordinate organs of the Central Authorities of the People's Republic of China referred to in paragraph (d), that—
    - (i) on behalf of those Central Authorities, exercise executive functions of the Central People's Government or functions for which the Central People's Government has responsibility under the Basic Law; and
    - (ii) do not exercise commercial functions, when acting within the scope of the delegated authority and the delegated functions of the subordinate organ concerned; (Added 26 of 1998 s. 4)
- statutory declaration** (法定聲明), if made—

**《聯合聲明》**(Joint Declaration) 指 1984 年 12 月 19 日在北京簽訂的《中華人民共和國政府和大不列顛及北愛爾蘭聯合王國政府關於香港問題的聯合聲明》；(由 1998 年第 26 號第 4 條增補)

**臨時立法會** (Provisional Legislative Council) 指香港特別行政區臨時立法會；(由 1998 年第 26 號第 4 條增補)

**簡易程序定罪** (summary conviction) 指裁判官按照《裁判官條例》(第 227 章) 作出的簡易程序定罪；

**醫生** (medical practitioner)、**註冊醫生** (registered medical practitioner) 及表示某人根據任何條例獲承認為香港醫生或為香港醫務人員的任何文字，指正式根據《醫生註冊條例》(第 161 章) 註冊或被當作已根據該條例註冊為醫生的人；

**釐、百分之** (per cent)，用於利率方面時 (不論在何種情形下須付的利率)，除非明文訂定以其他期間計，否則指年率；

**簽名、簽署** (sign)，對不能書寫的人來說，包括加蓋或印上印章、標記、拇指紋或圖章；

**議事程序表** (order paper) 就立法會而言，包括議程；(由 1998 年第 26 號第 4 條增補)

**警務人員** (police officer) 和提述香港警務處、香港警察隊或香港警隊的人員職級的詞語或詞句，均具有《警隊條例》(第 232 章) 給予同一詞語或詞句的涵義；(由 1998 年第 26 號第 4 條增補)

**權、權力** (power) 包括任何特權、權限和酌情決定權。

(由 1993 年第 89 號第 3 條修訂；由 1998 年第 26 號第 4 條修訂；由 1999 年第 78 號第 7 條修訂；編輯修訂——2017 年第 1 號編輯修訂紀錄)

編輯附註：

關於**幼年期、未成年、成人、成年人及成年**的定義，亦請參閱 1990 年第 32 號第 6(2) 條。

- (a) in Hong Kong, means a declaration under the repealed Statutory Declarations Ordinance or the Oaths and Declarations Ordinance (Cap. 11);
- (b) in any other common law jurisdiction, means a declaration made before a justice of the peace, notary public, or other person having authority therein under any legal provision for the time being in force in the jurisdiction to take or receive a declaration;
- (c) in the mainland of the People's Republic of China, means a declaration made before a notary pursuant to his notarial functions;
- (d) in any other place, means a declaration made before a consul of the People's Republic of China or a person having authority under a statute for the time being in force in the place to take or receive a declaration; (*Added 26 of 1998 s. 4*)

**street** (街、街道) means—

- (a) any highway, street, road, bridge, thorough-fare, parade, square, court, alley, lane, bridle-way, footway, passage or tunnel; and
- (b) any open place, whether or not situate on land the subject of a Government lease, used or frequented by the public or to which the public have or are permitted to have access; (*Added 26 of 1998 s. 4*)

**subsidiary legislation** and **subordinate legislation** (附屬法例、附屬法規、附屬立法) mean any proclamation, rule, regulation, order, resolution, notice, rule of court, bylaw or other instrument made under or by virtue of any Ordinance and having legislative effect; (*Added 26 of 1998 s. 4*)

**summary conviction** (簡易程序定罪) means a summary conviction by a magistrate in accordance with the provisions of the Magistrates Ordinance (Cap. 227);



**surname** (姓、姓氏) includes a clan or family name;

**treaty** (條約) means a treaty, convention or agreement made between states, and any protocol or declaration attached thereto or independent thereof but referring thereto; (*Added 26 of 1998 s. 4*)

**triable summarily** (可循簡易程序審訊) means triable by a magistrate, in accordance with the provisions of the Magistrates Ordinance (Cap. 227);

**vessel** (船隻) means any ship or boat and any description of vessel used in navigation;

**waters of Hong Kong** and **Hong Kong waters** (香港水域) mean all waters, whether navigable or not, included in the Hong Kong Special Administrative Region; (*Added 26 of 1998 s. 4*)

**weekday** and **week-day** (周日) mean any day other than a Sunday; (*Added 68 of 1995 s. 15*)

**words** (字、文字、語言文字) includes figures and symbols;

**writing** (書寫) and **printing** (印刷) include writing, printing, lithography, photography, typewriting and any other mode of representing words in a visible form;

**year** (年) means a year according to the Gregorian calendar;

**years of age** (歲、年歲、年齡) and words of like meaning, when used in reference to the age of any person, means years of age calculated from the date of birth. (*Added 26 of 1998 s. 4*)  
(*Amended 89 of 1993 s. 3; 26 of 1998 s. 4; 78 of 1999 s. 7*)

Editorial Note:

For the definitions of **adult**, **full age**, **infant** and **minor**, see also s. 6(2) of 32 of 1990.

### 3AA. 對擁護《基本法》、效忠特區的提述

(1) 就施行條例而言，任何人如 ——

### 3AA. References to upholding Basic Law and bearing allegiance to HKSAR

- (a) 擁護《中華人民共和國憲法》及《基本法》確立的香港特別行政區的憲制秩序；
- (b) 擁護中華人民共和國國家主權、統一、領土完整和國家安全；
- (c) 擁護——
- (i) 香港特別行政區是中華人民共和國不可分離的部分；
- (ii) 中華人民共和國對香港特別行政區行使主權；及
- (iii) 中央根據《基本法》對香港特別行政區行使管治權力；
- (d) 擁護“一國兩制”原則的落實，維護香港特別行政區的政治體制；
- (e) 擁護在《基本法》的框架下，保持香港特別行政區繁榮穩定的目的；及
- (f) 忠於香港特別行政區，維護香港特別行政區的利益，即屬擁護《基本法》、效忠中華人民共和國香港特別行政區。
- (2) 在第 (1) 款中，提述擁護，即提述在意圖上及言行上均真心地及真誠地遵守、支持、維護及信奉。
- (3) 就施行條例而言，任何人當作出或意圖作出以下任何行為時，不屬擁護《基本法》、效忠中華人民共和國香港特別行政區——
- (a) 作出或進行危害國家安全的行為或活動，包括——
- (i) 作出《基本法》第 23 條規定禁止的行為；
- (ii) 犯《中華人民共和國香港特別行政區維護國家安全法》規定的罪行；及
- (iii) 犯成文法則或普通法規定的關於危害國家安全的罪行；

- (1) For the purposes of an Ordinance, a person upholds the Basic Law and bears allegiance to the Hong Kong Special Administrative Region of the People's Republic of China if the person—
- (a) upholds the constitutional order of the Hong Kong Special Administrative Region established by the Constitution of the People's Republic of China and the Basic Law;
- (b) upholds the national sovereignty, unity, territorial integrity and national security of the People's Republic of China;
- (c) upholds—
- (i) the fact that the Hong Kong Special Administrative Region is an inalienable part of the People's Republic of China;
- (ii) the People's Republic of China's exercise of sovereignty over the Hong Kong Special Administrative Region; and
- (iii) the Central Authorities' exercise of governance over the Hong Kong Special Administrative Region under the Basic Law;
- (d) upholds the implementation of “one country, two systems” principle, and safeguards the political structure of the Hong Kong Special Administrative Region;
- (e) upholds the objective to maintain the prosperity and stability of the Hong Kong Special Administrative Region within the framework of the Basic Law; and
- (f) is loyal to, and safeguards the interests of, the Hong Kong Special Administrative Region.
- (2) In subsection (1), a reference to uphold is a reference to intend to genuinely and truthfully observe, support, maintain

- (b) 拒絕承認中華人民共和國對香港特別行政區擁有並行使主權，包括反對中央政權機關按照 ——
- (i) 《中華人民共和國憲法》；
  - (ii) 《基本法》；或
  - (iii) 《中華人民共和國香港特別行政區維護國家安全法》，  
履行職務和職能；
- (c) 拒絕承認香港特別行政區作為中華人民共和國一個地方行政區域的憲制地位；
- (d) 宣揚或支持“港獨”主張，包括 ——
- (i) 主張、推動或實施香港“獨立建國”；
  - (ii) 參與以“香港獨立”為宗旨的組織；
  - (iii) 主張、推動或實施“自決主權或治權”、“全民公投”、“全民制憲”等活動，或參與以“自決”為宗旨的組織；及
  - (iv) 主張或推動香港轉歸外國統治；
- (e) 尋求外國政府或組織干預香港特別行政區的事務；
- (f) 作出損害或有傾向損害《基本法》中以行政長官為主導的政治體制秩序的行為，包括 ——
- (i) 以非法手段強迫或威嚇行政長官改變某項政策或提交立法會審議的議案；
  - (ii) 無差別地反對特區政府提出的議案，並 ——
    - (A) 意圖以此要脅特區政府；
    - (B) 意圖以此使特區政府無法正常履行職務和職能；或
    - (C) 意圖以此逼使行政長官下台及推翻特區政府；及

and embrace, and genuinely and truthfully observe, support, maintain and embrace in words and deeds.

- (3) For the purposes of an Ordinance, a person does not uphold the Basic Law and bear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China when the person does, or intends to do, any of the following—
- (a) commits acts or carries out activities that endanger national security, including—
    - (i) commits an act required by Article 23 of the Basic Law to be prohibited;
    - (ii) commits an offence under the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (a translation of “《中華人民共和國香港特別行政區維護國家安全法》”); and
    - (iii) commits an offence relating to endangering national security under an enactment or under the common law;
  - (b) refuses to recognize the People's Republic of China's sovereignty over the Hong Kong Special Administrative Region and the exercise of the sovereignty, including objecting to the performance of duties and functions by the body of central power in accordance with—
    - (i) the Constitution of the People's Republic of China;
    - (ii) the Basic Law; or
    - (iii) the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (a translation of “《中華人民共和國香港特別行政區維護國家安全法》”);

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- (iii) 利用特區政府舉行的選舉，組織或實施（或煽動他人組織或實施）任何形式的對抗中央人民政府和特區政府的“變相公投”；
  - (g) 作出損害或有傾向損害香港特別行政區的整體利益的行為；
  - (h) 公開及故意以焚燒、毀損、塗劃、玷污、踐踏等方式侮辱國旗或國徽或區旗或區徽；
  - (i) 侮辱或貶損國歌或國家主權的任何其他象徵和標誌。
- (4) 就施行條例而言，本條並不局限對擁護《基本法》、效忠中華人民共和國香港特別行政區的提述的涵義。

*(由 2021 年第 13 號第 3 條增補)*Part II  
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- (c) refuses to recognize the constitutional status of the Hong Kong Special Administrative Region as a local administrative region of the People's Republic of China;
- (d) advocates or supports “Hong Kong independence”, including—
  - (i) pursues, promotes or implements “independence and state-building” of Hong Kong;
  - (ii) participates in an organization the object of which is “Hong Kong independence”;
  - (iii) pursues, promotes or implements an activity for “self-determination of sovereignty or jurisdiction”, “referendum” or “devising constitution by all people”, or participates in an organization the object of which is “self-determination”; and
  - (iv) pursues or promotes the reign over Hong Kong to be transferred to a foreign country;
- (e) solicits interference by foreign governments or organizations in the affairs of the Hong Kong Special Administrative Region;
- (f) commits acts that undermine or have a tendency to undermine the order of the political structure led by the Chief Executive, contained in the Basic Law, including—
  - (i) compels or overawes the Chief Executive by any unlawful means to change a policy, or a motion to be submitted to the Legislative Council for consideration;
  - (ii) indiscriminately objects to the Government's motion, and with this—
    - (A) intends to threaten the Government;

- (B) intends to render the Government incapable of performing its duties and functions as normal; or
- (C) intends to force the Chief Executive to step down and to overthrow the Government; and
- (iii) makes use of an election held by the Government to organize or implement, or to incite another person to organize or implement, a “de facto referendum” in any form to confront the Central People’s Government and the Government;
- (g) commits acts that undermine or have a tendency to undermine the overall interests of the Hong Kong Special Administrative Region;
- (h) desecrates the national flag or national emblem, or regional flag or regional emblem, by publicly and wilfully burning, mutilating, scrawling on, defiling or trampling on it;
- (i) insults or disrespects the national anthem or any other symbol and sign of national sovereignty.
- (4) For the purposes of an Ordinance, this section does not limit the meaning of a reference to upholding the Basic Law and bearing allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China.

*(Added 13 of 2021 s. 3)*

### 3A. 對前法官或退休法官的提述

對屬香港某一法院或某一指明法院的前法官或退休法官的人的提述，分別包括對屬在 1997 年 7 月 1 日之前根據香港法律組成的法院的前法官或退休法官，或於 1997 年 7 月 1 日之前在香港行使相當於該指明法院的司法管轄權的法院的前法官或退休法官的人的提述。

### 3A. References to former or retired judge

A reference to a person who is a former or retired judge of a court, or of a specified court, in Hong Kong, includes respectively a reference to a person who is a former or retired judge of a court which was constituted under the laws of Hong Kong before 1 July 1997, or of the court in Hong Kong which before 1 July 1997 exercised jurisdiction similar to that of the specified court.

(由 2000 年第 32 號第 15 條增補)

(Added 32 of 2000 s. 15)

4. (由 1998 年第 26 號第 5 條廢除)  
(具追溯力的適應化修訂——見 1998 年第 26 號第 5 條)
5. **文法變體及同語族詞句**  
在任何條例中凡對任何字或詞句下有定義，該定義的適用範圍即擴及該字或詞句的文法變體及同語族詞句。
6. **提述特區政府財產的情況**  
(1) 在任何條例中凡提述財產，而所用的詞句的意思是指該財產是特區政府所擁有、屬於特區政府或復歸特區政府的，或傳達類似的意思，則須按照《基本法》第七條解釋該提述。  
(2) 在本條中，**財產** (property) 指在香港特別行政區範圍內的任何土地和自然資源。  
(由 1998 年第 26 號第 6 條代替)
7. **性別及單眾數的條文**  
(1) 凡指男性的字及詞句亦指女性及不屬於男性或女性者。(由 1993 年第 89 號第 4 條修訂)  
(2) 凡指單數的字及詞句亦指眾數，而指眾數的字及詞句亦指單數。
8. **以郵遞送達**  
凡條例授權、規定以普通或掛號郵遞方式送達任何文件或發給任何通知，不論用的是“送達”、“發給”、“送交”或其他詞句，只要寫明正確地址、付足郵資、按有關規定以普通或掛

4. (Repealed 26 of 1998 s. 5)  
(Adaptation amendments retroactively made - see 26 of 1998 s. 5)
5. **Grammatical variations and cognate expressions**  
Where any word or expression is defined in any Ordinance, such definition shall extend to the grammatical variations and cognate expressions of such word or expression.
6. **References to Government property**  
(1) Where reference is made in any Ordinance to property and the expressions used in relation thereto imply that the property is owned by, belongs to, or reverts to, the Government, or convey a similar meaning, the reference shall be construed in accordance with Article 7 of the Basic Law.  
(2) In this section, **property** (財產) means any of the land and natural resources within the Hong Kong Special Administrative Region.  
(Replaced 26 of 1998 s. 6)
7. **Provisions for gender and number**  
(1) Words and expressions importing the masculine gender include the feminine and neuter genders. (Amended 89 of 1993 s. 4)  
(2) Words and expressions in the singular include the plural and words and expressions in the plural include the singular.
8. **Service by post**  
Where any Ordinance authorizes or requires any documents to be served or any notice to be given by post or by registered post, whether the expression “serve” or “give” or “send” or any other



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號郵遞方式將該文件或通知寄往最後所知的收件人通信地址，即當作完成送達該文件或發給該通知；而且，除非相反證明成立，否則該項文件的送達或通知的發給須當作已在該文件或通知經一般郵遞程序應寄達收件人時完成。

(由 1972 年第 36 號第 2 條修訂)

**9. 中英文字和詞句**

條例英文本內的中文字和詞句，按中國語文和風俗解釋，而條例中文本內的英文字和詞句，則按英國語文和風俗解釋。

(由 1987 年第 18 號第 3 條代替。由 1998 年第 26 號第 7 條修訂)

**10. (由 1998 年第 26 號第 8 條廢除)**

(具追溯力的適應化修訂——見 1998 年第 26 號第 8 條)

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expression is used, the service or notice shall be deemed to be effected by properly addressing, pre-paying the postage thereon and dispatching it by post or by registered post, as the case may be, to the last known postal address of the person to be served or given notice, and, unless the contrary is proved, such service or notice shall be deemed to have been effected at the time at which the document or notice would be delivered in the ordinary course of post.

(Amended 36 of 1972 s. 2)

**9. Chinese and English words and expressions**

Chinese words and expressions in the English text of an Ordinance shall be construed according to Chinese language and custom and English words and expressions in the Chinese text of an Ordinance shall be construed according to English language and custom.

(Replaced 18 of 1987 s. 3. Amended 26 of 1998 s. 7)

**10. (Repealed 26 of 1998 s. 8)**

(Adaptation amendments retroactively made - see 26 of 1998 s. 8)

## 第 IIA 部

### 關於有兩種法定語文本的法例的一般條文

(第 IIA 部由 1987 年第 18 號第 4 條增補。格式變更——2017 年第 1 號編輯修訂紀錄)

#### 10A. 第 IIA 部的適用範圍

本部適用於——

- (a) 以兩種法定語文制定的條例；或
- (b) 已根據《法定語文條例》(第 5 章)第 4B 條頒布真確本的條例。

#### 10B. 兩種法定語文本條例的釋疑

- (1) 條例的中文本和英文本同等真確，解釋條例須以此為依據。
- (2) 條例的兩種真確本所載條文，均推定為具有同等意義。
- (3) 凡條例的兩種真確本在比較之下，出現意義分歧，而引用通常適用的法例釋義規則亦不能解決，則須在考慮條例的目的和作用後，採用最能兼顧及協調兩文本的意義。

#### 10C. 普通法詞句

- (1) 凡條例英文本內使用普通法詞句，而中文本內使用對應的詞句，則條例須依該詞句在普通法上的意義解釋。
- (2) (由 1998 年第 26 號第 9 條廢除)

## Part IIA

### General Provisions as to Laws in Both Official Languages

(Part IIA added 18 of 1987 s. 4. Format changes—E.R. 1 of 2017)

#### 10A. Application of Part IIA

This Part shall apply to an Ordinance—

- (a) enacted in both official languages; or
- (b) in respect of which an authentic text is published under section 4B of the Official Languages Ordinance (Cap. 5).

#### 10B. Construction of Ordinances in both official languages

- (1) The English language text and the Chinese language text of an Ordinance shall be equally authentic, and the Ordinance shall be construed accordingly.
- (2) The provisions of an Ordinance are presumed to have the same meaning in each authentic text.
- (3) Where a comparison of the authentic texts of an Ordinance discloses a difference of meaning which the rules of statutory interpretation ordinarily applicable do not resolve, the meaning which best reconciles the texts, having regard to the object and purposes of the Ordinance, shall be adopted.  
(Amended L.N.46 of 1991)

#### 10C. Expressions of common law

- (1) Where an expression of the common law is used in the English language text of an Ordinance and an analogous expression is used in the Chinese language text thereof, the



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第 1 章第 IIA 部  
第 10D 條Part IIA  
Section 10D2A-4  
Cap. 1**10D. 法定法團的名稱**

凡由條例設立的法團，其名稱只以中文載於該條例的中文本內，並只以英文載於該條例的英文本內，則該條例兩種語文本所載的名稱，均屬該法團的名稱。

**10E. 兩種法定語文的字等可宣布為意義相等**

- (1) 行政長官會同行政會議可藉憲報公告，宣布該公告內以一種法定語文載明的字、詞句、職稱、名稱（包括條例的簡稱）、引文或事物，在條例釋義上，相等於該公告內以另一種法定語文所載的字、詞句、職稱、名稱、引文或事物。
- (2) 除非事先將有關的公告草案提交立法會，並經立法會決議通過，否則不得根據本條作任何宣布；本條例第 34 條不適用於這類宣布。

(由 1998 年第 26 號第 37 條修訂)

Ordinance shall be construed in accordance with the common law meaning of that expression. (*Amended L.N. 336 of 1990*)

(2) (*Repealed 26 of 1998 s. 9*)

**10D. Name of statutory body corporate**

Where an Ordinance establishes a body corporate and in the English language text and Chinese language text of that Ordinance the name of the body corporate is in the form only of the language of that text, the name of the body corporate shall consist of the form of its name in each of the texts of the Ordinance.

(*Amended L.N. 336 of 1990*)

**10E. Words etc. in the official languages may be declared as equivalents**

- (1) The Chief Executive in Council may, by notice in the Gazette, declare that any word, expression, office, title (including the short title of any Ordinance), citation or thing therein specified in one official language shall, in relation to the interpretation of an Ordinance, be the equivalent of any word, expression, office, title, citation or thing therein specified in the other official language.
- (2) No declaration shall be made under this section unless a draft of the notice has been laid before and approved by resolution of the Legislative Council, and section 34 of this Ordinance shall not apply in relation to any such declaration.

(*Amended 26 of 1998 s. 37*)

**第 III 部****有關條例的一般條文***(格式變更——2017 年第 1 號編輯修訂紀錄)***11. 條例屬公眾條例**

每一條例均屬公眾條例，此點須予以司法認知。

**12. (由 1993 年第 89 號第 5 條廢除)****13. 條例的引稱**

- (1) 凡為提述任何條例，只須用以下方式引稱該條例，則為所有目的均已足夠——
  - (a) 該條例的名稱、簡稱或引稱；
  - (b) 該條例在制定當年的各條例中排列的編號；或
  - (c) 該條例根據以下條例的授權而獲合法編配的章號——
    - (i) 《法例發布條例》(第 614 章)；或
    - (ii) 任何其他就印行香港法例編正版或其他版本而訂定條文的條例。(由 2011 年第 13 號第 29 條代替)
- (2) 按照第 (1) 款提述條例時，可使用以下文本中所使用的名稱、簡稱、引稱、編號或章號——(由 2020 年第 21 號第 7 條修訂)
  - (a) 政府印務局印刷的條例文本；或
  - (b) 條例的經核證文本。(由 2020 年第 21 號第 7 條修訂)
- (3) 在本條中——

**Part III****General Provisions as to Ordinances***(Format changes—E.R. 1 of 2017)***11. Ordinance to be public Ordinance**

Every Ordinance shall be a public Ordinance and shall be judicially noticed as such.

**12. (Repealed 89 of 1993 s. 5)****13. Citation of Ordinance**

- (1) Where any Ordinance is referred to, it shall be sufficient for all purposes to cite such Ordinance by—
  - (a) the title, short title or citation thereof;
  - (b) its number among the Ordinances of the year in which it was enacted; or
  - (c) any chapter number lawfully given to it under the authority of—
    - (i) the Legislation Publication Ordinance (Cap. 614); or
    - (ii) any other Ordinance providing for the issue of a revised or other edition of the laws of Hong Kong. *(Replaced 13 of 2011 s. 29)*
- (2) Any reference made to any Ordinance, in accordance with the provisions of subsection (1), may be made according to the title, short title, citation, number or chapter number used in— *(Amended 21 of 2020 s. 7)*
  - (a) copies of Ordinances printed by the Government Printer; or

**經核證文本** (verified copies) 指《法例發布條例》(第 614 章) 第 5(1) 條所指的經核證文本。(由 2020 年第 21 號第 7 條增補)  
(由 1974 年第 57 號法律公告修訂)

(b) verified copies of Ordinances. (*Amended 21 of 2020 s. 7*)  
(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). (*Added 21 of 2020 s. 7*)  
(*Amended L.N. 57 of 1974*)

14. (由 1993 年第 89 號第 6 條廢除)

14. (*Repealed 89 of 1993 s. 6*)

#### 15. 提述條例包括其修訂版本

- (1) 凡條例提述另一條例，須當作包括提述該另一條例不時修訂的版本。
- (2) 凡條例廢除及重新制定另一前有條例的任何條文，則不論是否有將該條文修改，在其他條例提述該已廢除的條文時，須解作提述該重新制定的條文。

#### 15. Reference to Ordinance as amended

- (1) Where in any Ordinance a reference is made to another Ordinance, such reference shall be deemed to include a reference to such last mentioned Ordinance as the same may from time to time be amended.
- (2) Where any Ordinance repeals and re-enacts, with or without modification, any provision of a former Ordinance, references in any other Ordinance to the provision so repealed shall be construed as references to the provision so re-enacted.

#### 16. 引稱條例的一部分

任何條例中，描述或引稱某條例的一部分時，須解作包括構成描述或引稱部分的開首或結尾所提或所指的字、條或其他部分。

#### 16. Citation of part of Ordinance

In any Ordinance a description or citation of a portion of an Ordinance shall be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

#### 17. 提述條例、條等的釋疑

- (1) 條例提述“任何條例”或“任何成文法則”時，須解作提述任何當時施行的條例。
- (2) 凡條例只以編號、英文字母或任何編號與英文字母的組合提述某條或其他部分，而未與任何其他條例的名稱或簡稱並提，有關提述均須解作提述同一條例內屬於該編

#### 17. Construction of reference to Ordinance, section, etc.

- (1) Any reference in any Ordinance to “any Ordinance” or to “any enactment” shall be construed as a reference to any Ordinance for the time being in force.
- (2) Where in an Ordinance there is a reference to a section or other division by number, letter or combination of number

號、英文字母或組合的條或其他部分。(由 1993 年第 89 號第 7 條代替)

- (3) 凡條例中任何一條只以編號、英文字母或任何編號與英文字母的組合提述某款或其他部分，而未與該條例或任何其他條例的任何條號並提，有關提述均須解作提述同一條內屬於該編號、英文字母或組合的款或其他部分。

(由 1993 年第 89 號第 7 條代替)

- (4)-(5) (由 1993 年第 89 號第 7 條廢除)

## 18. 旁註及標題

- (1) 凡條例的任何條、款或段，是將任何條約或香港以外地方的法律的某條、款、段或其他條文原文照錄，或實則上與之類似，可於該條例的條、款或段加註，以簡寫註明該條約或法律的條、款、段或其他條文。(由 1998 年第 26 號第 10 條修訂)
- (2) 根據第 (1) 款所作的加註，並無立法效力，亦不得在任何方面更改、限制或擴大任何條例的釋義。
- (3) 任何條例條文的旁註或標題均無立法效力，亦不得在任何方面更改、限制或擴大任何條例的釋義。

(由 1988 年第 44 號第 2 條修訂)

and letter, and not in conjunction with the title or short title of any other Ordinance, the reference shall be construed as a reference to the section or other division of that number, letter or combination in the Ordinance in which the reference occurs. (Replaced 89 of 1993 s. 7)

- (3) Where in a section of an Ordinance there is a reference to a subsection or other division by number, letter or combination of number and letter, and not in conjunction with the number of a section of that or any other Ordinance, the reference shall be construed as a reference to the subsection or other division of that number, letter or combination in the section in which the reference occurs. (Replaced 89 of 1993 s. 7)

- (4)-(5) (Repealed 89 of 1993 s. 7)

## 18. Marginal notes and section headings

- (1) Where any section, subsection or paragraph of any Ordinance is taken verbatim from, or is substantially similar to, a section, subsection, paragraph or other provision of any law of a place outside Hong Kong or any treaty, there may be added as a note to the section, subsection or paragraph of the Ordinance a reference, in abbreviated form, to such section, subsection, paragraph or provision of that law or treaty. (Amended 26 of 1998 s. 10)
- (2) A reference added under subsection (1) shall not have any legislative effect and shall not in any way vary, limit or extend the interpretation of any Ordinance.
- (3) A marginal note or section heading to any provision of any Ordinance shall not have any legislative effect and shall not in any way vary, limit or extend the interpretation of any Ordinance.

(Amended 44 of 1988 s. 2)

**19. 釋義總則**

條例必須當作有補缺去弊的作用，按其真正用意、涵義及精神，並為了最能確保達致其目的而作出公正、廣泛及靈活的釋疑及釋義。

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**19. General principles of interpretation**

An Ordinance shall be deemed to be remedial and shall receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Ordinance according to its true intent, meaning and spirit.

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**第 IV 部****生效日期、拒准、修訂及廢除***(格式變更——2017 年第 1 號編輯修訂紀錄)***20. 條例的生效日期及其他事宜**

- (1) 任何條例均須在憲報刊登。
  - (2) 任何條例——
    - (a) 在該條例刊登當日開始時生效；或
    - (b) 如有條文規定該條例須在另一日生效，則在該另一日開始時生效。*(由 1998 年第 26 號第 11 條修訂)*
  - (3) 如任何條例——
    - (a) 須在憲報所公告的某日期生效，有關公告可——
      - (i) 就不同的條文訂定不同的生效日期(包括就不同的目的而生效)；
      - (ii) 就同一條文但不同的目的訂定不同的生效日期；
    - (b) 須自憲報所公告的某日期起廢除，有關公告可——
      - (i) 就不同的條文訂定不同的廢除日期(包括就不同的目的而廢除)；
      - (ii) 就同一條文但不同的目的訂定不同的廢除日期，而不同的公告可——
        - (i) 就不同的條文及不同的目的訂定不同的日期；
        - (ii) 就同一條文但不同的目的訂定不同的日期。*(由 1998 年第 26 號第 11 條代替)*
- (由 1993 年第 89 號第 8 條代替)*

**Part IV****Commencement, Disallowance, Amendment and Repeal***(Format changes—E.R. 1 of 2017)***20. Commencement, etc., of Ordinance**

- (1) An Ordinance shall be published in the Gazette.
  - (2) An Ordinance commences— *(Amended 26 of 1998 s. 11)*
    - (a) at the beginning of the day on which it is published; or
    - (b) if provision is made for it to commence on another day, at the beginning of that other day.
  - (3) If an Ordinance—
    - (a) is to commence on a day to be notified in the Gazette, the notice may fix different days—
      - (i) for different provisions to commence (including commence for different purposes);
      - (ii) for the same provisions to commence for different purposes;
    - (b) is to be repealed from a day to be notified in the Gazette, the notice may fix different days—
      - (i) from which different provisions are to be repealed (including repealed for different purposes);
      - (ii) from which the same provisions are to be repealed for different purposes,
- and different notices may fix different days—
- (i) for different provisions and for different purposes;
  - (ii) for the same provisions for different purposes. *(Replaced 26 of 1998 s. 11)*



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第 21 條Part IV  
Section 214-4  
Cap. 1*(Replaced 89 of 1993 s. 8)***21. 失效**

- (1) 凡任何條例依據《基本法》第十七條被發回，行政長官須盡快藉憲報公告公布該條例失效。
- (2) 凡任何條例如第 (1) 款所述而失效，則第 23 條的條文適用，猶如該條例是被廢除一樣。
- (3) 如第 (1) 款所述而失效的條例所廢除或修訂的任何條例，須以其原有形式恢復及繼續施行。

*(由 1998 年第 26 號第 12 條代替)*22. *(由 1993 年第 89 號第 9 條廢除)***23. 一般情形下廢除的效果**

凡條例將另一條例全部或部分廢除，不得因此而——

- (a) 恢復任何在該項廢除生效時並無施行或並不存在的東西；
- (b) 影響該已廢除條例的過往實施，或影響根據該已廢除條例而經適當作出或容許的行動；
- (c) 影響根據該已廢除條例而獲取、產生或引致的權利、特權、義務或責任；
- (d) 影響因犯該已廢除條例內的罪項而引致的刑罰、沒收或懲罰；或
- (e) 影響與上述權利、特權、義務、責任、刑罰、沒收或懲罰有關的調查、法律程序或補救事宜；而這些調查、法律程序或補救事宜可以着手進行、繼續或

**21. Invalidation**

- (1) Where an Ordinance is returned pursuant to Article 17 of the Basic Law, the invalidation of the Ordinance shall as soon as possible be notified by the Chief Executive by notice in the Gazette.
- (2) Where an Ordinance is invalidated as referred to in subsection (1), the provisions of section 23 shall apply as if the Ordinance had been repealed.
- (3) An Ordinance repealed or amended by an Ordinance which is invalidated as referred to in subsection (1) shall revive and continue in force in its original form. *(Amended L.N. 46 of 1991)*

*(Replaced 26 of 1998 s. 12)*22. *(Repealed 89 of 1993 s. 9)***23. Effect of repeal generally**

Where an Ordinance repeals in whole or in part any other Ordinance, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of any Ordinance so repealed or anything duly done or suffered under any Ordinance so repealed;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any Ordinance so repealed;

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執行，這些刑罰、沒收或懲罰亦可以施行，一如該作廢除用的條例並未曾通過。

- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any Ordinance so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Ordinance had not been passed.

**24. 已廢除條例不得恢復生效**

凡條例將另一前有條例全部或部分廢除，而本身亦遭廢除，則後一項廢除不得使該前遭廢除的條例或條文恢復生效，除非另外訂有條文作如此規定。

**24. Repealed Ordinance not revived**

Where any Ordinance repealing in whole or in part any former Ordinance is itself repealed, such last repeal shall not revive the Ordinance or provision previously repealed, unless provision is made to that effect.

**25. 廢除及取代**

凡條例將另一條例全部或部分廢除，並另以條文取代，則遭廢除的條例須繼續施行，直至取代的條文實施為止。

**25. Repeal and substitution**

Where any Ordinance repeals in whole or in part any other Ordinance and substitutes other provisions therefor, the repealed Ordinance shall remain in force until the substituted provisions come into operation.

**26. (由 1993 年第 89 號第 10 條廢除)****26. (Repealed 89 of 1993 s. 10)****27. 條例有效期屆滿等的效果**

凡任何條例——

- (a) 有效期屆滿或時效已過；
- (b) 依據《基本法》第一百六十條被宣布為同《基本法》抵觸；或
- (c) 被發現同《基本法》抵觸，並按《基本法》第一百六十條所指明而依照《基本法》規定的程序停止生效，

**27. Effect of expiry, etc. of Ordinance**

Where an Ordinance——

- (a) expires or lapses;
- (b) has pursuant to Article 160 of the Basic Law been declared to be in contravention of the Basic Law; or
- (c) is discovered to be in contravention of the Basic Law and, as specified in Article 160 of the Basic Law,

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則第 23 條的條文適用，猶如該條例是被廢除一樣。  
(由 1998 年第 26 號第 13 條代替)

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ceases to have force in accordance with the procedure prescribed by the Basic Law,  
the provisions of section 23 shall apply as if the Ordinance had been repealed.

*(Replaced 26 of 1998 s. 13)*

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**第 V 部****附屬法例***(格式變更——2017 年第 1 號編輯修訂紀錄)***28. 有關訂立附屬法例權力的一般條文**

- (1) 凡條例授予權力給任何人訂立附屬法例，以下條文即適用於有關附屬法例——*(由 1993 年第 89 號第 11 條修訂)*
- (a) 若附屬法例宣稱是根據一項或多項特定權力而訂立的，即須視為也是根據使該附屬法例得以訂立的所有其他權力而訂立的；*(由 1993 年第 89 號第 11 條修訂)*
- (b) 附屬法例不得與任何條例的條文互相矛盾；
- (c) 附屬法例可由訂立該附屬法例的同一人，以立例時所用的同一方式，隨時作出修訂；*(由 1993 年第 89 號第 11 條修訂)*
- (ca) 凡 (c) 段所指的人已完全或局部由另一人所取代，則取代的人可如原來的人一樣，在其管轄範圍內的一切事宜上，行使 (c) 段所授予的權力；*(由 1993 年第 89 號第 11 條增補)*
- (d) 凡條例授予權力給任何人，為一般目的及附帶的特別目的而訂立附屬法例，則羅列各項特別目的，亦不得當作為對為一般目的所授權力的概括性有所減損；*(由 1993 年第 89 號第 11 條修訂)*
- (e) 附屬法例可訂定凡違反或觸犯該附屬法例者，即屬犯罪，經簡易程序定罪後，可判處罰款或監禁，或判處罰款兼監禁；罰款額及監禁期可在該附屬法例內指定，但以罰款不超過 \$5,000，監禁不超過 6 個月為限；*(由 1981 年第 23 號第 2 條修訂；由 1993 年第 89 號第 11 條修訂)*

**Part V****Subsidiary Legislation***(Format changes—E.R. 1 of 2017)***28. General provision with regard to power to make subsidiary legislation**

- (1) Where an Ordinance confers power on a person to make subsidiary legislation, the following provisions shall have effect with reference to the subsidiary legislation—*(Amended 89 of 1993 s. 11)*
- (a) when any subsidiary legislation purports to be made in exercise of a particular power or powers, it shall be deemed also to be made in exercise of all other powers that enable its making; *(Amended 89 of 1993 s. 11)*
- (b) no subsidiary legislation shall be inconsistent with the provisions of any Ordinance;
- (c) subsidiary legislation may at any time be amended by the same person and in the same manner by and in which it was made; *(Amended 89 of 1993 s. 11)*
- (ca) where the person referred to in paragraph (c) has been replaced wholly or in part by another person, the power conferred by paragraph (c) may be exercised by the other person for all matters in his jurisdiction as if he were the original person; *(Added 89 of 1993 s. 11)*
- (d) where any Ordinance confers power on any person to make subsidiary legislation for any general purpose, and also for any incidental special purpose, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with

- (f) 附屬法例可修訂本身所屬條例中載有的表格，並可訂明新表格。
- (g) (由 1993 年第 89 號第 11 條廢除)
- (2) 任何附屬法例均須在憲報刊登。(由 1993 年第 89 號第 11 條增補)
- (3) 任何附屬法例——
- (a) 在該附屬法例刊登當日開始時實施；或
- (b) 如有條文規定該附屬法例須在另一日生效，則在該另一日開始時實施。(由 1993 年第 89 號第 11 條增補)
- (4) 任何人訂立附屬法例，均可規定該附屬法例在該人或在該附屬法例所指定的其他人藉其發出公告所訂定的日期生效。(由 1993 年第 89 號第 11 條增補)
- (5) 如任何附屬法例須在憲報所公告的日期生效，或自憲報所公告的日期起被廢除，有關公告可就不同條文訂定不同的生效日期或廢除日期，而不同條文的生效日期或廢除日期亦可藉不同公告而予訂定。(由 1993 年第 89 號第 11 條增補)

- reference to the general purpose; (*Amended 89 of 1993 s. 11*)
- (e) subsidiary legislation may provide that a contravention or breach of the subsidiary legislation is an offence punishable on summary conviction by such fine not exceeding \$5,000 or by such term of imprisonment not exceeding 6 months as may be specified in the subsidiary legislation or by both such fine and imprisonment; (*Amended 23 of 1981 s. 2; 89 of 1993 s. 11*)
- (f) subsidiary legislation may amend any forms contained in the Ordinance under which such subsidiary legislation is made and may prescribe new forms. (*Amended 89 of 1993 s. 11*)
- (g) (*Repealed 89 of 1993 s. 11*)
- (2) Subsidiary legislation shall be published in the Gazette. (*Added 89 of 1993 s. 11*)
- (3) Subsidiary legislation comes into operation—
- (a) at the beginning of the day on which it is published; or
- (b) if provision is made for it to commence on another day, at the beginning of that other day. (*Added 89 of 1993 s. 11*)
- (4) A person who makes subsidiary legislation may provide for the subsidiary legislation to commence on a day to be fixed by notice to be given by him or by some other person designated in the subsidiary legislation. (*Added 89 of 1993 s. 11*)
- (5) If subsidiary legislation is to commence on, or be repealed from, a day to be notified in the Gazette, the notice may fix different days for different provisions to commence or from which different provisions are to be repealed and different

**28A. 訂立附屬法例的權力的解釋**

如任何既適用於香港亦適用於深圳灣口岸港方口岸區的條例賦予某人訂立附屬法例的權力，則該權力須解釋為包括——

- (a) 宣布該附屬法例不適用於深圳灣口岸港方口岸區的權力；及
- (b) 分別就香港及深圳灣口岸港方口岸區訂立不同條文的權力。

(由 2007 年第 4 號第 17 條增補)

**29. 各種費用**

(1A) 凡條例授權力予任何人訂立附屬法例，該附屬法例可就該條例內或該附屬法例內的任何事項，徵收費用。(由 1993 年第 89 號第 12 條增補)

- (1) 凡附屬法例訂有關於各種費用的條文，該附屬法例可訂定以下全部或任何事項——
  - (a) 特指的費用；
  - (b) 最高或最低費用；
  - (c) 最高及最低費用；
  - (d) 在一般情況下、在指定條件下或在指定情況下費用的繳付；
  - (e) 任何人或任何一類人的繳費豁免；及
  - (f) 在發生某事件後，或在指明的人酌情決定下，全部或部分費用的減少、免去或退還。

notices may fix different days for different provisions. (*Added 89 of 1993 s. 11*)

**28A. Construction of power to make subsidiary legislation**

Where an Ordinance that applies in Hong Kong and in the Shenzhen Bay Port Hong Kong Port Area confers power on a person to make subsidiary legislation, the power shall be construed as including—

- (a) a power to declare that the subsidiary legislation does not apply in the Shenzhen Bay Port Hong Kong Port Area; and
- (b) a power to make different provisions with reference to Hong Kong and the Shenzhen Bay Port Hong Kong Port Area respectively.

(*Added 4 of 2007 s. 17*)

**29. Fees and charges**

(1A) Where an Ordinance confers a power on a person to make subsidiary legislation, the subsidiary legislation may impose a fee or charge for anything in it or the Ordinance. (*Added 89 of 1993 s. 12*)

- (1) Where provision is made by any subsidiary legislation in respect of fees or other charges, such subsidiary legislation may provide for all or any of the following matters—
  - (a) specific fees or charges;
  - (b) maximum or minimum fees or charges;
  - (c) maximum and minimum fees or charges;
  - (d) the payment of fees or charges either generally or under specified conditions or in specified circumstances;
  - (e) the exemption of any person or class of persons from the payment of fees or charges; and



- (2) 凡附屬法例訂定減少、免去或退還全部或部分費用，可述明該項減少、免去或退還是概括地適用或特別地適用於——
- (a) 某些事項或事務，或某類事項或事務；
  - (b) 某些文件或某類文件；
  - (c) 某一事件的發生或終止；
  - (d) 某些人或某類人；或
  - (e) 上述事項、事務、文件、事件或人的任何組合，
- 亦可述明該項減少、寬免或退還須符合該附屬法例所指定的條件，或須由該附屬法例指定的人酌情決定，方可適用。

- (f) the reduction, waiver or refund, in whole or in part, of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.
- (2) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for by any subsidiary legislation, such reduction, waiver or refund may be expressed to apply or be applicable either generally or specially—
- (a) in respect of certain matters or transactions or classes of matters or transactions;
  - (b) in respect of certain documents or classes of documents;
  - (c) in respect of the occurrence or the termination of any event;
  - (d) in respect of certain persons or classes of persons; or
  - (e) in respect of any combination of such matters, transactions, documents, events or persons,
- and may be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified therein.

## 29A. 各種費用的變動

- (1) 凡某項費用的數額，現在是由行政長官會同行政會議訂立的附屬法例指明，或由該等附屬法例以其他方式定出或釐定，則在符合第(2)款的規定下，財政司司長可藉類似的附屬法例增加、減少或以其他方式更改該項費用的數額。(由 1997 年第 362 號法律公告修訂)
- (2) (a) 行政長官會同行政會議可以書面形式發出指示，指示財政司司長就該指示中指明的各種費用而行使第(1)款授予他的權力時——(由 1997 年第 362 號法律公告修訂)
  - (i) 必須預先獲得行政長官會同行政會議的批准；或

## 29A. Variation of certain fees and charges

- (1) Where the amount of any fee or charge is for the time being specified in, or otherwise fixed or determined by, subsidiary legislation made by the Chief Executive in Council, subject to subsection (2), the Financial Secretary may by similar subsidiary legislation increase or decrease, or otherwise vary, the amount of the fee or charge.
- (2) (a) The Chief Executive in Council may by a direction in writing direct the Financial Secretary to exercise, as regards fees or charges specified in the direction, a power conferred on him by subsection (1) either—

- (ii) 不得超逾指示中指明的限額；或
- (iii) 只可按照指示中指明的方式行事。
- (b) 只要根據本款發出的指示仍然有效，財政司司長須遵守該指示。(由 1997 年第 362 號法律公告修訂)
- (3) 第 (1) 款所授予的權力是額外的權力，而並非用以取代行政長官會同行政會議就各種費用可行使的任何權力。
- (4) 凡 ——
- (a) 可根據第 (1) 款行使權力；及
- (b) 指明、定出或以其他方式釐定有關費用的附屬法例 (**基本文書**)，是 ——
- (i) 第 35 條適用或第 34 條不適用的附屬法例；或
- (ii) 需要將其草稿提交立法會會議席上省覽的附屬法例，
- 則按個別情況，下列條文凡適用者必須實施 ——
- (i) 第 35 條適用於行使該權力而訂立或發出的附屬法例 (該附屬法例是修訂該基本文書的)；
- (ii) 第 34 條不適用於該附屬法例；
- (iii) 規定將該基本文書提交立法會會議席上省覽的成文法則，或與如此提交基本文書有關的成文法則，亦適用於如此訂立的附屬法例 (該附屬法例是修訂該基本文書的)。
- (由 1993 年第 39 號第 2 條增補。由 1998 年第 26 號第 37 條修訂)

- (i) only with the prior approval of the Chief Executive in Council; or
- (ii) so as not to exceed limits specified in the direction; or
- (iii) only in some other manner so specified.
- (b) For so long as a direction under this subsection is in force the Financial Secretary shall comply with it.
- (3) The powers conferred by subsection (1) are in addition to, and are not in substitution for, any power exercisable by the Chief Executive in Council in relation to fees or charges.
- (4) Where—
- (a) a power under subsection (1) is exercisable; and
- (b) the subsidiary legislation by which the relevant fee or charge was specified, fixed or otherwise determined (**the primary instrument**) is—
- (i) subsidiary legislation to which section 35 applies or to which section 34 does not apply; or
- (ii) subsidiary legislation of which a draft was required to be laid on the table of the Legislative Council,
- then such 1 or more of the following provisions as are appropriate in the particular circumstances shall operate—
- (i) section 35 shall apply to subsidiary legislation made or issued in exercise of the power which amends the primary instrument;
- (ii) section 34 shall not apply to such subsidiary legislation;
- (iii) the enactment requiring or otherwise relevant to so laying the primary instrument shall also apply to subsidiary legislation which is so made or issued and amends that instrument.

(Added 39 of 1993 s. 2. Amended 26 of 1998 s. 37)

30. (由 1993 年第 89 號第 13 條廢除)

### 31. 附屬法例的釋疑

- (1) 凡條例授予權力訂立附屬法例，該附屬法例所用的詞句，涵義與該條例所用的相同；而該附屬法例提述“本條例”時，須解作提述授予權力訂立該附屬法例的條例。(由 1993 年第 89 號第 14 條修訂)
- (2) 凡附屬法例只以編號、英文字母或任何編號與英文字母的組合提述某條或其他條文，而未與其他附屬法例或任何條例的名稱或簡稱並提，有關提述均須解作提述同一附屬法例內屬於該編號、英文字母或組合的條或其他條文。(由 1993 年第 89 號第 14 條增補)
- (3) 凡附屬法例只以編號、英文字母或任何編號與英文字母的組合提述某款或某條文其他部分，而未與該附屬法例或任何其他附屬法例的任何其他條號或條文編號並提，有關提述均須解作提述同一條內或同一條文內屬於該編號、英文字母或組合的款或條文其他部分。(由 1993 年第 89 號第 14 條增補)

### 32. 在條例已制定但未生效期間法定權力的行使

- (1) 凡條例並非在該條例於憲報刊登當日開始實施，根據該條例行事的權力均可在該條例於憲報刊登之後隨時行使。

30. (Repealed 89 of 1993 s. 13)

### 31. Construction of subsidiary legislation

- (1) Where any Ordinance confers power to make any subsidiary legislation, expressions used in the subsidiary legislation shall have the same meaning as in the Ordinance conferring the power, and any reference in such subsidiary legislation to “the Ordinance” shall be construed as a reference to the Ordinance conferring the power to make such subsidiary legislation. (Amended 89 of 1993 s. 14)
- (2) Where in subsidiary legislation there is a reference to a section or other provision by number, letter or combination of number and letter, and not in conjunction with the title or short title of other subsidiary legislation or an Ordinance, the reference shall be construed as a reference to the section or other provision of that number, letter or combination in the subsidiary legislation in which the reference occurs. (Added 89 of 1993 s. 14)
- (3) Where in subsidiary legislation there is a reference to a subsection or other subdivision of a provision by number, letter or combination of number and letter, and not in conjunction with the number of any other section or provision of that subsidiary legislation or any other subsidiary legislation, the reference shall be construed as a reference to the subsection or other subdivision of a provision of that number, letter or combination in the section or other provision in which the reference occurs. (Added 89 of 1993 s. 14)

### 32. Exercise of statutory powers between enactment and commencement of Ordinance

- (1) Where an Ordinance is to come into operation on a day other than the day of its publication in the Gazette, a power to do

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- (2) 除非條例有賴行使第 (1) 款所指的權力方得以實施，否則行使該權力所做的事情，在該條例中與該權力有關的條文實施前，不得先行生效。

(由 1993 年第 89 號第 15 條代替)

33. (由 1993 年第 89 號第 16 條廢除)

#### 34. 向立法會提交附屬法例

- (1) 所有附屬法例在憲報刊登後均須於隨後的一次立法會會議席上提交該會省覽。
- (2) 凡附屬法例已根據第 (1) 款提交立法會會議席上省覽，在該次省覽的會議之後 28 天內舉行的會議上，立法會可藉通過決議，訂定將該附屬法例修訂，修訂方式不限，但須符合訂立該附屬法例的權力；此等決議一經通過，該附屬法例須當作由憲報刊登該決議之日起修訂，但已根據該附屬法例而作出的任何事情，其法律效力不受影響。
- (3) 若第 (2) 款所指期限的屆滿日期 (如非因本款規定) 原應是——
- (a) 在立法會會期結束前或在立法會解散前的最後一次會議後；但 (由 1993 年第 89 號第 17 條代替)
- (b) 在立法會下一會期的第二次會議日或該日之前，(由 1993 年第 89 號第 17 條代替)
- 則該期限須視為延展至該第二次會議的翌日，並在該日屆滿。
- (4) 立法會可於第 (2) 款所指的期限或憑藉第 (3) 款而延展的該期限屆滿之前，藉決議就其中指明的附屬法例——

anything under the Ordinance may be exercised at any time after its publication in the Gazette.

- (2) An exercise of a power under subsection (1) is not effective until the provision in the Ordinance to which it relates comes into operation unless the exercise of the power is necessary to bring the Ordinance into operation.

(Replaced 89 of 1993 s. 15)

33. (Repealed 89 of 1993 s. 16)

#### 34. Placing of subsidiary legislation before Legislative Council

- (1) All subsidiary legislation shall be laid on the table of the Legislative Council at the next sitting thereof after the publication in the Gazette of that subsidiary legislation.
- (2) Where subsidiary legislation has been laid on the table of the Legislative Council under subsection (1), the Legislative Council may, by resolution passed at a sitting of the Legislative Council held not later than 28 days after the sitting at which it was so laid, provide that such subsidiary legislation shall be amended in any manner whatsoever consistent with the power to make such subsidiary legislation, and if any such resolution is so passed the subsidiary legislation shall, without prejudice to anything done thereunder, be deemed to be amended as from the date of publication in the Gazette of such resolution.
- (3) If the period referred to in subsection (2) would but for this subsection expire—
- (a) after the last sitting before the end of a session or dissolution of the Legislative Council; but (Replaced 89 of 1993 s. 17)

- (a) (就第(2)款所指的期限而言)將該期限延展至在該期限屆滿之日後第 21 天或之後舉行的首次立法會會議；
- (b) (在第(2)款所指的期限已憑藉第(3)款而延展的情況下)將經如此延展的該期限延展至在該下一會期的第二次會議日後第 21 天或之後舉行的首次立法會會議。(由 2002 年第 8 號第 2 條代替)
- (5) 立法會按照本條通過的決議，須於通過後 14 日內在憲報刊登，或在特別情況下行政長官准許延展的期限內刊登。
- (6) 在本條內——
- 附屬法例** (subsidiary legislation) 不包括立法會的決議；
- 會議** (sitting)，用於計算時間時，只包括其議事程序表上載有附屬法例的會議，並指該會議開始當日。(由 1993 年第 89 號第 17 條代替)
- (由 1986 年第 39 號第 2 條代替。由 1998 年第 26 號第 37 條修訂)

- (b) on or before the day of the second sitting of the Legislative Council in the next session, (*Replaced 89 of 1993 s. 17*)
- that period shall be deemed to extend to and expire on the day after that second sitting.
- (4) Before the expiry of the period referred to in subsection (2) or that period as extended by virtue of subsection (3), the Legislative Council may by resolution in relation to any subsidiary legislation specified therein—
- (a) in the case of the period referred to in subsection (2), extend that period to the first sitting of the Legislative Council held not earlier than the twenty-first day after the day of its expiry;
- (b) in the case where the period referred to in subsection (2) has been extended by virtue of subsection (3), extend that period as so extended to the first sitting of the Legislative Council held not earlier than the twenty-first day after the day of the second sitting in that next session. (*Replaced 8 of 2002 s. 2*)
- (5) Any resolution passed by the Legislative Council in accordance with this section shall be published in the Gazette not later than 14 days after the passing thereof or within such further period as the Chief Executive may allow in any particular case. (*Amended 26 of 1998 s. 37*)
- (6) In this section—
- sitting** (會議), when used to calculate time, means the day on which the sitting commences and only includes a sitting at which subsidiary legislation is included on the order paper;
- subsidiary legislation** (附屬法例) does not include a resolution of the Legislative Council. (*Replaced 89 of 1993 s. 17*)

(*Replaced 39 of 1986 s. 2*)



**35. 立法會對附屬法例的批准**

凡條例訂定附屬法例須經立法會或其他主管當局批准，或載有效果相同的文字，則——

- (a) 該附屬法例須呈交立法會或該其他主管當局批准；及
- (b) 立法會可藉決議，或該其他主管當局可藉命令，將該附屬法例全部或部分修訂。

(由 1998 年第 26 號第 37 條修訂)

**36. 廢除條例對附屬法例的效果**

(1) 凡條例——

- (a) 廢除任何前有條例的整條或部分，並另以條文取代；或
- (b) 廢除及重新制定任何前有條例的整條或部分，不論是否有將該條例修改，(由 1998 年第 26 號第 14 條修訂)

則根據前有條例而訂立，並於作廢除用條例的生效日期正在施行的附屬法例，只要與作廢除用的條例不相矛盾，須繼續施行，且在一切事項上有效，猶如該附屬法例是根據作廢除用的條例而訂立一樣。

- (2) 憑藉第 (1) 款繼續施行的附屬法例，可不時加以修訂，猶如該附屬法例是根據作廢除用的條例而訂立一樣。

**37. 表格**

- (1) 如任何表格與由或根據條例所訂的有所差異，只要不影

**35. Approval of Legislative Council to subsidiary legislation**

Where any Ordinance provides that subsidiary legislation shall be subject to the approval of the Legislative Council or of any other authority, or contains words to the like effect, then—

- (a) the subsidiary legislation shall be submitted for the approval of the Legislative Council or other authority; and
- (b) the Legislative Council may by resolution or the other authority may by order amend the whole or any part of the subsidiary legislation.

**36. Effect of repeal on subsidiary legislation**

(1) Where any Ordinance—

- (a) repeals in whole or in part any former Ordinance and substitutes other provisions therefor; or
- (b) repeals in whole or in part any former Ordinance and re-enacts such former Ordinance with or without modification, (*Amended 26 of 1998 s. 14*)

any subsidiary legislation made under the former Ordinance and in force at the commencement of the repealing Ordinance shall, so far as it is not inconsistent with the repealing Ordinance, continue in force and have the like effect for all purposes as if made under the repealing Ordinance.

- (2) Where any subsidiary legislation is continued in force by virtue of subsection (1), such subsidiary legislation may be from time to time amended as if it had been made under the repealing Ordinance.

**37. Forms**

- (1) Where any form is prescribed by or under any Ordinance,



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響表格的內容實質，即不得因此而無效。

- (2) 凡條例內的表格以兩種法定語文訂明，而訂明的兩種法定語文本是分列的或是以特定方式並列的，該表格可用以下形式印製和供使用——
- (a) 兩種語文本以任何方式並列；或
- (b) 單用一種法定語文本。(由 1987 年第 18 號第 5 條增補)

### 37A. 以條例修訂附屬法例

如某條例(第 3 條所界定者)賦予某人訂立附屬法例的權力，則以任何條例修訂該附屬法例(不論該附屬法例事實上是否由該人訂立)一事，並無亦不會阻止該人修訂該附屬法例。

(由 1998 年第 26 號第 15 條增補)

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deviations therefrom, not affecting the substance of such form, shall not invalidate it.

- (2) Where a form is prescribed in any Ordinance in both official languages and the text in one official language is combined in a particular manner with, or is set out separately from, the text in the other official language, the form may be printed and used—
- (a) with the texts combined in any manner; or
- (b) in either official language. (*Added 18 of 1987 s. 5*)

### 37A. Amendment of subsidiary legislation by Ordinance

The amendment of subsidiary legislation by an Ordinance does not prevent, and has never prevented, a person on whom power is conferred by an Ordinance (as defined in section 3) to make that subsidiary legislation (and whether or not the person made the subsidiary legislation) from amending that subsidiary legislation.

(*Added 26 of 1998 s. 15*)

**第 VI 部****權力***(格式變更——2017 年第 1 號編輯修訂紀錄)***38. 合法行使權力的推定**

凡條例授權力予任何人——

- (a) 訂立任何附屬法例；
- (b) 訂立任何文書；或
- (c) 行使任何權力，

而該條例訂明條件，使所授權力須在這些條件獲遵守或執行，或在這些條件存在的情況下方可行使，則在有關的附屬法例、文書或證明已有行使有關權力的其他文件內，如說明該附屬法例或文書是行使或依據該條例所授權力而訂立，或說明該權力是行使或依據該條例所授權力而行使，或載有效果相同的說明，即推定為已恰當地履行這些條件。

*(由 1993 年第 89 號第 18 條修訂)***39. 權力的行使**

- (1) 凡條例授予權力或委以職責，該權力可不時因應情況所需而行使，該職責須不時因應情況所需而執行。
- (2) 凡條例向任何擔任公職的人按其職位授予權力或委以職責，則該權力可由當時擔任該公職的人行使，而該職責須由當時擔任該公職的人執行。

**Part VI****Powers***(Format changes—E.R. 1 of 2017)***38. Presumption of lawful exercise of power**

Where any Ordinance confers power upon any person to—

- (a) make any subsidiary legislation;
- (b) make any instrument; or
- (c) exercise any power,

and the Ordinance conferring the power prescribes conditions, subject to the observance, performance or existence of which any such power may be exercised, such conditions shall be presumed to have been duly fulfilled if in the subsidiary legislation, the instrument or the document evidencing the exercise of the power there is a statement that the subsidiary legislation or instrument is made, or the power exercised, in exercise of, or in pursuance of, the power conferred by such Ordinance, or a statement to the like effect.

*(Amended 89 of 1993 s. 18)***39. Exercise of powers**

- (1) Where any Ordinance confers any power or imposes any duty, then the power may be exercised and the duty shall be performed from time to time as occasion requires.
- (2) Where any Ordinance confers any power or imposes any duty on the holder of any public office as such, then the power may be exercised and the duty shall be performed by the holder for the time being of that public office.

**40. 賦權字眼的釋疑**

- (1) 凡條例授權力予任何人作出或確使作出任何作為或事情，則須當作亦授予該人一切合理所需的權力，使他能作出或確使作出該作為或事情。
- (2) 在不損害第(1)款的概括性的原則下，凡條例授予權力——
  - (a) 訂定、禁止、管制或規限任何事項，該權力包括以發出牌照方式訂定該事項的權力，亦包括權力以禁止一些可能藉以逃避對該事項的禁止、管制或規限的作為；
  - (b) 批給牌照、政府租契、許可證，授予權限，給予批准或豁免，該權力包括就該項牌照、政府租契、許可證、權限、批准或豁免而施加合理條件的權力；*(由 1998 年第 26 號第 16 條修訂；由 1998 年第 29 號第 105 條修訂)*
  - (c) 批准任何人或事物，該權力包括撤回批准的權力；
  - (d) 發出指示，該權力包括發出禁令式指示的權力。
- (3)-(4) *(由 1993 年第 89 號第 19 條廢除)*

**41. 發牌等權力屬酌情權**

- (1) 凡條例授權力予任何人發出、批給、發給或續發任何牌照、政府租契、權限、批准、豁免或許可證，獲授該權力的人有權酌情決定發出、批給、發給或續發，或拒絕發出、批給、發給或續發該牌照、政府租契、權限、批准、豁免或許可證。

**40. Construction of enabling words**

- (1) Where any Ordinance confers upon any person power to do or enforce the doing of any act or thing, all such powers shall be deemed to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.
- (2) Without prejudice to the generality of subsection (1), where any Ordinance confers power—
  - (a) to provide for, prohibit, control or regulate any matter, such power shall include power to provide for the same by the licensing thereof and power to prohibit acts whereby the prohibition, control or regulation of such matter might be evaded;
  - (b) to grant a licence, Government lease, permit, authority, approval or exemption, such power shall include power to impose reasonable conditions subject to which such licence, Government lease, permit, authority, approval or exemption may be granted; *(Amended 26 of 1998 s. 16; 29 of 1998 s. 105)*
  - (c) to approve any person or thing, such power shall include power to withdraw approval thereof;
  - (d) to give directions, such power shall include power to couch the same in the form of prohibitions.
- (3)-(4) *(Repealed 89 of 1993 s. 19)*

**41. Power to issue licences, etc. discretionary**

- (1) Where any Ordinance confers power upon any person to issue, grant, give or renew any licence, Government lease, authority, approval, exemption or permit, the person so empowered shall have a discretion either to issue, grant, give or renew or to refuse to issue, grant, give or renew such

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- (2) 任何人遭拒絕發出、批給、發給或續發任何牌照、政府租契、權限、批准、豁免或許可證，如獲條例授予提出上訴的權利，該項權利不受本條影響。

(由 1993 年第 89 號第 20 條修訂；由 1998 年第 26 號第 17 條修訂；由 1998 年第 29 號第 105 條修訂)

#### 42. 有權委任包括有權暫停、解除、重新委任等

凡條例向任何人授予權力或委以職責，以便作出委任，或組織或設立審裁處、各類委員會或相類團體，則具有該權力或職責的人亦同時具有權力——

- (a) 將憑該權力或職責所委任的人免除、暫停、解除或撤銷委任，重新委任或復任；
- (b) 將憑該權力或職責所委任、組織或設立的審裁處、各類委員會或相類團體解散，或將其委任、組織或設立予以撤銷，並有權重新委任、重新組織或重新設立該等團體；及
- (c) 指明憑該權力或職責所委任的人的任期：

但若行使該權力或職責的人須在另一人的建議下，或須得到另一人的批准或同意，方可行使該權力或職責，則其同時具有的權力亦須在該另一人的建議下或得到該另一人的批准或同意，方可行使。

#### 43. 指明公職人員的轉授權

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licence, Government lease, authority, approval, exemption or permit.

- (2) Nothing in this section shall affect any right which may be conferred by any Ordinance upon any person to appeal against a refusal to issue, grant, give or renew any licence, Government lease, authority, approval, exemption or permit.

(Amended 89 of 1993 s. 20; 26 of 1998 s. 17; 29 of 1998 s. 105)

#### 42. Power to appoint includes power to suspend, dismiss, re-appoint, etc.

Where any Ordinance confers a power or imposes a duty upon any person to make any appointment or to constitute or establish any board, tribunal, commission, committee or similar body, then the person having such power or duty shall also have the power—

- (a) to remove, suspend, dismiss or revoke the appointment of, and to re-appoint or reinstate, any person appointed in exercise of such power or duty;
- (b) to revoke the appointment, constitution or establishment of, or to dissolve, any board, tribunal, commission, committee or similar body appointed, constituted or established, in exercise of such power or duty, and to re-appoint, re-constitute or re-establish the same; and
- (c) to specify the period for which any person appointed in exercise of such power or duty shall hold such appointment:

Provided that where the power or duty of such person so to act is only exercisable upon the recommendation, or is subject to the approval or consent, of some other person, then such power shall only be exercisable upon such recommendation or subject to such approval or consent.

#### 43. Delegation by specified public officers

- (1) 凡條例向指明的公職人員授予權力或委以職責，該人員可轉授給其他公職人員，亦可轉授給當時擔任他所指定職位的人，代他行使這些權力或執行這些職責；由轉授時開始，或由該指明的公職人員所指明的日期開始，獲轉授的人即掌有並可行使這些權力及須執行這些職責。
- (2) 第 (1) 款並不授權指明的公職人員轉授權力給任何人以訂立附屬法例或聆訊上訴。
- (3) 凡條例向指明的公職人員授予權力或委以職責，而該權力由另一公職人員行使，或該職責由另一公職人員執行，則除非相反證明成立，該指明的公職人員須視為已根據第 (1) 款轉授給該另一公職人員行使該權力或執行該職責。
- (4) 本條所述的**指明的公職人員** (specified public officer) 即當時擔任指明公職的人，而該公職是行政長官會同行政會議為一般目的或為某一條例的施行，根據本條藉憲報公告而指明的。(由 1998 年第 26 號第 37 條修訂)

#### 44. 轉授權力及職責的效果

- (1) 凡條例授權力予任何人將本身獲任何條例所授權力轉授予他人代為行使，或將本身獲任何條例所委職責轉授予他人代為執行——
  - (a) 轉授人雖已轉授，仍可隨時行使已轉授的權力，或執行已轉授的職責；
  - (b) 轉授人可以他認為適當的方式對該項轉授施加條件、約制或限制；

- (1) Where any Ordinance confers powers or imposes duties upon a specified public officer, such public officer may delegate any other public officer or the person for the time being holding any office designated by him to exercise such powers or perform such duties on his behalf, and thereupon, or from the date specified by such specified public officer, the person delegated shall have and may exercise such powers and perform such duties.
- (2) Nothing in subsection (1) shall authorize a specified public officer to delegate any person to make subsidiary legislation or to hear any appeal.
- (3) Where any Ordinance confers any power or imposes any duty upon a specified public officer and such power is exercised or such duty is performed by any other public officer, the specified public officer shall, unless the contrary is proved, be deemed to have delegated the latter public officer under subsection (1) to exercise the power or perform the duty.
- (4) In this section **specified public officer** (指明的公職人員) means the person for the time being holding any public office which has been specified, either generally or for the purposes of any particular Ordinance, under this section by the Chief Executive in Council by notice in the Gazette. (*Amended 26 of 1998 s. 37*)

#### 44. Effect of delegation of powers and duties

- (1) Where any Ordinance confers power upon any person to delegate the exercise on his behalf of any of the powers or the performance of any of the duties conferred or imposed upon him under any Ordinance—
  - (a) such delegation shall not preclude the person so delegating from exercising or performing at any time any of the powers or duties so delegated;



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- (c) 若轉授須經另一人批准方可作出，則批准人可以他認為適當的方式對該項轉授施加條件、約制或限制；
  - (d) 轉授人可指名轉授給某人，亦可轉授給當時擔任他所指定職位的人；及
  - (e) 轉授人可對任何轉授加以修訂。*(由 1971 年第 14 號第 2 條增補)*
- (2) 轉授任何權力，須當作包括轉授任何附帶或有關的職責，而轉授任何職責亦須當作包括轉授任何附帶或有關的權力。

**45. 特別情況下權力的行使**

凡條例向某公職的擔任者授予權力或委以職責，而 ——

- (a) 該職位已廢去；或
  - (b) 未有人獲委任擔當該職位的職能，
- 則這些權力及職責 ——
- (i) 如屬訂立附屬法例的，可由行政長官會同行政會議行使或執行；及
  - (ii) 如屬其他方面的，可由行政長官藉命令而指示的其他公職的擔任者行使或執行。

*(由 1998 年第 26 號第 37 條修訂)*

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- (b) such delegation may be conditional, qualified or limited in such manner as the person so delegating may think fit;
  - (c) where the delegation may be made only with the approval of some person, such delegation may be conditional, qualified or limited in such manner as the person whose approval is required may think fit;
  - (d) the delegation may be to a named person or to the person for the time being holding any office designated by the person so delegating; and
  - (e) any delegation may be amended by the person so delegating. *(Added 14 of 1971 s. 2)*
- (2) The delegation of any power shall be deemed to include the delegation of any duty incidental thereto or connected therewith and the delegation of any duty shall be deemed to include the delegation of any power incidental thereto or connected therewith.

**45. Exercise of powers in special cases**

Where any Ordinance confers any power or imposes any duty upon the holder of any public office and either—

- (a) that office has been abolished; or
- (b) no person has been appointed to discharge the functions of that office,

those powers and duties may be exercised or performed—

- (i) in the case of making subsidiary legislation, by the Chief Executive in Council; and
- (ii) in any other case, by the holder of such other public office as the Chief Executive may by order direct.

*(Amended 26 of 1998 s. 37)*



**46. 訂立公共文書及行事的權力**

凡條例授權力予任何人訂立、批給、發出或批准任何文告、命令、公告、聲明、文書、通告、牌照、許可證、豁免、登記冊或目錄，該權力包括作以下事情的權力——

- (a) 修訂或暫時撤銷這些文告、命令、公告、聲明、文書、通告、牌照、許可證、豁免、登記冊或目錄；
- (b) 以另一份文告、命令、公告、聲明、文書、通告、牌照、許可證、豁免、登記冊或目錄取代已訂立、批給、發出或批准的一份；
- (c) 撤回藉該權力所作的任何文告、命令、公告、聲明、文書、通告、牌照、許可證、豁免、登記冊或目錄的批准；及
- (d) 宣布有關文告、命令、公告、聲明、文書、通告、牌照、許可證、豁免、登記冊或目錄的實施日期及實施期限。

(由 1993 年第 89 號第 21 條修訂)

**47. 追溯委任日期的權力**

凡根據條例作出的委任，可宣布由獲委任人實際開始行使委任的權力及執行委任的職責之日起生效，但以不早於該委任所根據條例的生效日期為限。

**46. Power to make public instruments and perform acts**

Where any Ordinance confers power upon any person to make, grant, issue or approve any proclamation, order, notice, declaration, instrument, notification, licence, permit, exemption, register or list, such power shall include power—

- (a) to amend or suspend such proclamation, order, notice, declaration, instrument, notification, licence, permit, exemption, register or list;
- (b) to substitute another proclamation, order, notice, declaration, instrument, notification, licence, permit, exemption, register or list for one already made, granted, issued or approved;
- (c) to withdraw approval of any proclamation, order, notice, declaration, instrument, notification, licence, permit, exemption, register or list so approved; and
- (d) to declare the date of the coming into operation, and the period of operation, of any such proclamation, order, notice, declaration, instrument, notification, licence, permit, exemption, register or list.

(Amended 89 of 1993 s. 21)

**47. Power to relate back appointment**

Any appointment made under the provisions of any Ordinance may be declared to have effect as from the date upon which the person appointed in fact began to exercise the powers and perform the duties of his appointment, not being a date earlier than the commencement of the Ordinance under which the appointment is made.

## 第 VII 部

### 各類委員會

(格式變更——2017 年第 1 號編輯修訂紀錄)

#### 47A. 行政長官委任諮詢團體的權力

- (1) 行政長官可不時藉憲報刊登的命令，依法設立他認為符合公眾利益的諮詢委員會和其他委員會及團體，並可委任其成員。
- (2) 根據第 (1) 款發出的命令，可載有與該命令設立的委員會或團體有關而行政長官認為適當的條文，包括該團體的職權範圍，成員的任期，成員的免任、辭職及重新委任，會議的法定人數以及相類的程序事項。

(由 1982 年第 39 號第 3 條增補。由 1998 年第 26 號第 37 條修訂)

#### 48. 委任主席的權力

凡條例授權力予任何人委任審裁處、各類委員會或相類團體的成員，委任人可委任該審裁處、委員會或相類團體的主席、代理主席、副主席及秘書。

#### 49. 委任公職人員為各類委員會成員的權力

凡條例授權力予任何人委任審裁處、各類委員會或相類團體的成員，獲授該權力的人可按職銜委任公職人員為該審裁處、委員會或相類團體的成員；委任一經作出，當時擔任該公職

## Part VII

### Boards and Committees

(Format changes—E.R. 1 of 2017)

#### 47A. Power of Chief Executive to appoint advisory bodies

- (1) The Chief Executive may from time to time by order published in the Gazette establish by law such advisory and other committees and bodies as he considers appropriate in the public interest and may appoint the members thereof.
- (2) An order under subsection (1) may contain such provisions relating to the committee or body established by the order as the Chief Executive thinks fit, including the terms of reference of the body, the terms of office of members appointed to that body, the removal or resignation of members, the re-appointment of members, quorums for meetings and similar procedural matters.

(Added 39 of 1982 s. 3. Amended 26 of 1998 s. 37)

#### 48. Power to appoint chairman

Where any Ordinance confers power upon any person to appoint any persons to be members of any board, tribunal, commission, committee or similar body, the person so appointing may appoint a chairman, a deputy chairman, a vice-chairman and a secretary of such board, tribunal, commission, committee or similar body.

#### 49. Power to appoint public officer to board, etc.

Where any Ordinance confers power upon any person to appoint any persons to be members of any board, tribunal, commission, committee or similar body, the person so empowered may appoint any public officer, by his official designation, to be a member of

的人即為該審裁處、委員會或相類團體的成員，直至該項委任遭撤銷或在其他情況下終結為止。

such board, tribunal, commission, committee or similar body, and, on such appointment and until such appointment shall be revoked or otherwise determined, the person for the time being holding the public office in question shall be a member of such board, tribunal, commission, committee or similar body.

### 50. 候補成員的委任

凡審裁處、各類委員會或相類團體是由條例或根據條例而設立的，任何人經由該條例獲得委任其任何或全部成員的權力，可——

- (a) 委任一位或多位符合適當資格的人為其候補成員，當實任成員因任何理由暫時不能出席該審裁處、委員會或團體的會議時，可由任何一位候補成員出席；及
- (b) 委任一位符合適當資格的人為其臨時成員，替代任何因患病、不在香港或其他原因而不能行使成員職能的實任成員，

該候補或臨時成員在出席該審裁處、委員會或團體的會議時，在一切事項上均須當作該審裁處、委員會或團體的成員。

### 50. Appointment of alternates

Where any board, tribunal, commission, committee or similar body is established by or under any Ordinance, any person who is empowered by such Ordinance to appoint any or all of the members thereof may—

- (a) appoint 1 or more duly qualified persons to be alternate members of the same, and any one such alternate member may attend any meeting of the same when a substantive member is temporarily unable to attend for any reason; and
- (b) appoint a duly qualified person to be a temporary member of the same in the place of any substantive member who is precluded by illness, absence from Hong Kong or any other cause from exercising his functions as such, (*Amended 26 of 1998 s. 18*)

and when attending any meeting of such board, tribunal, commission, committee or similar body, such alternate or temporary member shall be deemed for all purposes to be a member of the same.

### 51. 各類委員會的權力不受席位空缺影響

凡審裁處、各類委員會或相類團體是由條例或根據條例而設立的，其權力不受以下情形影響——

- (a) 成員席位出現空缺；
- (b) 自認為成員的人在委任或資格方面有欠妥之處；或
- (c) 在召集會議事上有不依規則的小節。

### 51. Powers of board, etc. not affected by vacancy

Where any board, tribunal, commission, committee or similar body is established by or under any Ordinance, the powers of such board, tribunal, commission, committee or similar body shall not be affected by—

- (a) any vacancy in the membership thereof;

**52. 多數的權力及權力的行使**

- (1) 凡條例向不少於 3 人組成的團體，或不少於 3 人的一組人授予權力或委以職責，該權力或職責可由該團體或該組人中的多數成員，以該團體或該組人的名義行使或執行。
- (2) 每當該團體或該組人集會時，對所有以表決方式決定的事項，不論以何種名目進行表決，該集會的主席或主持集會的成員除有權投普通票外，並有權投決定票。
- (3) 賦給該團體或該組人的權力，可由行使或授予權限行使該權力的會議或議事會的主席或主持人明示行使，亦可由該團體或該組人不時為明示行使該權力而授權的人明示行使。

- (b) any defect in the appointment or qualification of a person purporting to be a member thereof; or
- (c) any minor irregularity in the convening of any meeting thereof.

**52. Power of majority and exercise of powers**

- (1) Where any Ordinance confers a power or imposes a duty upon a body or number of persons consisting of or being not less than 3, such power may be exercised or duty performed in the name of that body or number of persons by a majority of those persons.
- (2) Whenever such body or number of persons is assembled, the chairman or other member presiding shall have a casting as well as a deliberative vote, in all matters in which a decision is taken by vote by whatever name such vote may be called.
- (3) The exercise of any power vested in such body or number of persons may be signified either by the chairman or other person presiding at the meeting or other deliberation at which such power was exercised or at which, as the case may be, authority to exercise it was conferred, or by any person from time to time authorized by such body or persons to signify the exercise of such power.

**53. 印章**

凡審裁處、各類委員會或相類團體根據任何條例成立為永久延續及持有法團印章的法團，而有任何文件須蓋上該法團印章時，該印章須由該審裁處、委員會或相類團體的主席蓋上，或由主席為蓋印目的而委任的成員蓋上，並須由主席或該成員加簽以示真確。

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**53. Seal**

Where any Ordinance constitutes any board, tribunal, commission, committee or similar body to be a body corporate having perpetual succession and a common seal, and any document requires to be sealed with such common seal, then such common seal shall be affixed by the chairman of such board, tribunal, commission, committee or similar body, or by any member thereof appointed by the chairman for that purpose, and shall be authenticated by the signature of the chairman or such member.

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**第 VIII 部****公職人員及政府或公共機構合約***(格式變更——2017 年第 1 號編輯修訂紀錄)***54. 提述公職人員的情況**

在任何條例、文書、令狀或各式法律程序文件內，凡提述公職人員，或以指定其職位的詞語提述擔任公職的人時，須包括提述任何當時合法擔當該職位全部或部分職能的人，和任何當時獲委任署理或執行該職位全部或部分職責的人。

*(由 1989 年第 54 號法律公告修訂)***54A. 移轉公職人員職能的權力**

- (1) 立法會可藉決議，訂定將某一公職人員憑藉條例得以行使的任何職能移轉給另一公職人員。*(由 1998 年第 26 號第 37 條修訂)*
- (2) 為施行上的需要或便利，根據本條通過的決議可載有附帶、相應及補充條文，以使該決議能切實施行。
- (3) 如政務司司長發出證明書，證明緊接在根據本條通過的決議生效前賦給某一公職人員的財產，已憑藉該項決議移轉給另一公職人員，該證明書即為該項財產移轉的確證。*(由 1997 年第 362 號法律公告修訂)*
- (4) 在本條內——

**公職人員** (public officer) 包括為使當時擔任公職的人成為法團而設立的法團；

**職能** (functions) 包括權力及職責。

*(由 1975 年第 67 號第 3 條增補)***Part VIII****Public Officers and Public Contracts***(Format changes—E.R. 1 of 2017)***54. References to public officer**

In any Ordinance, instrument, warrant or process of any kind, any reference to a public officer, or to a person holding a public office by a term designating his office, shall include a reference to any person for the time being lawfully discharging the functions of that office, or any part of such functions, and any person appointed to act in or perform the duties of such office, or any part of such duties, for the time being.

*(Amended L.N. 54 of 1989; L.N. 46 of 1991)***54A. Power to transfer functions of public officers**

- (1) The Legislative Council may by resolution provide for the transfer to any public officer of any functions exercisable by virtue of any Ordinance by another public officer.
- (2) A resolution under this section may contain such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to the resolution.
- (3) A certificate issued by the Chief Secretary for Administration that any property vested in a public officer immediately before a resolution under this section takes effect has been transferred by virtue of the resolution to another public officer shall be conclusive evidence of the transfer. *(Amended L.N. 362 of 1997)*
- (4) In this section—



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Cap. 1*[ 比照 1946 c. 31 s. 1 U.K.]***55. 職位名稱的改變**

政務司司長可藉憲報公告 ( 公告可具有追溯效力 ) , 宣布改變任何公職人員、公共機構或任何條例所提述的人的職稱或名稱, 該公告並可載有條文, 訂定將新職稱或名稱代入任何與該公職人員、公共機構或該人有關的條例內, 以及代入在公告生效日期前已訂立的文書、合約或已開始進行的法律程序內。

( 由 1975 年第 67 號第 4 條代替。由 1997 年第 362 號法律公告  
修訂 )

*[ 比照 1946 c. 31 s. 2 U.K.]***56. 以指名或指定職位方式委任公職人員的情況**

凡條例授權力予任何人委任或指名委任一人, 使獲委任者掌有及行使任何權力, 或執行任何職責, 獲條例授予權力的人可指名委任某人, 亦可指示當時擔任他所指明職位的人, 掌有及行使這些權力或執行這些職責; 由作出委任或指示時開始, 或由獲條例授予權力的人指明的日期開始, 獲指名委任的人或擔任上述職位的人即掌有並可行使這些權力, 或須執行這些職責, 直至該項委任遭撤銷或在其他情況下終結為止。

**57. 空缺的填補***functions* ( 職能 ) includes powers and duties;

*public officer* ( 公職人員 ) includes any corporation created for the purpose of incorporating a person for the time being holding a public office.

*( Added 67 of 1975 s. 3 )**[ cf. 1946 c. 31 s. 1 U.K. ]***55. Change of title of office**

The Chief Secretary for Administration may, by notice ( which may be given retrospective effect ) in the Gazette, declare a change in title of any public officer or public body, or of any person referred to in any Ordinance, and the notice may contain provisions substituting the new title in any Ordinance relating to the public officer, public body or person and in any instrument, contract or legal proceedings made or commenced before the date on which the notice takes effect.

*( Replaced 67 of 1975 s. 4. Amended L.N. 362 of 1997 )**[ cf. 1946 c. 31 s. 2 U.K. ]***56. Appointment of officers by name or office**

Where any Ordinance confers power upon any person to appoint or name a person to have and exercise any powers or perform any duties, the person so empowered may either appoint a person by name or direct the person for the time being holding any office designated by him to have and exercise such powers or perform such duties; and thereupon, or from the date specified by the person so empowered, the person appointed by name or the person holding the office aforesaid shall have and may exercise such powers or perform such duties accordingly until such appointment be revoked or otherwise determined.

**57. Filling vacancy**

- (1) 當條例向公職人員授予權力或委以職責，而該公職人員因患病或其他原因缺勤或無能力處事，以致不能行使其職位的權力或執行其職位的職責時，行政長官可藉憲報公告，指示由他指定的公職人員，或由擔任他所指定職位的公職人員掌有並可行使該權力，或須執行該職責，但須依照由行政長官指示的條件、例外規定及約制。
- (2) 行政長官根據第 (1) 款發給的指示——
  - (a) 可因預計會發生缺勤或無能力處事的情形而發給；或
  - (b) 可在發生缺勤或無能力處事的情形後發給，並可追溯至這些情形開始發生時起生效。
- (3) 凡條例向公職人員授予權力或委以職責，而其後同一或另一特區政府部門設立一新職位，行政長官可藉憲報公告，指示這些權力及職責，或這些權力及職責的任何部分，須由擔任該新設職位的人全權行使，或與原先的公職人員共同行使，或以其他形式行使。

(由 1998 年第 26 號第 37 條修訂)

### 58. 於任職人退休度假時委任他人的權力

- (1) 凡有擔任公職的人卸任前休假，可委任他人擔任該公職。
- (2) 凡因按照第 (1) 款作出委任而引致同一公職有兩個或超過兩個人擔任，則就任何條例而言，以及就擔任該職位的人所獲授予的權力或委以的職責來說，最後獲委任的人須視為擔任該公職的人。

- (1) When any Ordinance confers a power or imposes a duty upon a public officer and such public officer is unable to exercise the powers or perform the duties of his office, owing to absence or inability to act from illness or any other cause, the Chief Executive may, by notice in the Gazette, direct that such power shall be had and may be exercised and such duty shall be performed by a public officer named by, or by a public officer holding the office designated by, the Chief Executive, subject to such conditions, exceptions and qualifications as the Chief Executive may direct.
- (2) Any direction by the Chief Executive under subsection (1) may be given—
  - (a) in anticipation of any absence or inability occurring; or
  - (b) subsequently thereto and may relate back to the commencement of such absence or inability.
- (3) Where any Ordinance confers powers or imposes duties upon a public officer and a new post is subsequently created in the same or another Government department, the Chief Executive may, by notice in the Gazette, direct that the said powers and duties or any of them shall be exercised by any holder of the new post so created, either to the exclusion of or in addition to the first named public officer or otherwise.

(Amended 26 of 1998 s. 37)

### 58. Power to appoint while holder on retirement leave

- (1) Where the holder of any public office is on leave of absence pending the relinquishment by him of such office, another person may be appointed to the same public office.
- (2) Where 2 or more persons are holding the same public office by reason of an appointment made in accordance with subsection (1), then, for the purposes of any Ordinance and in respect of any power conferred or duty imposed upon the

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第 59 條Part VIII  
Section 598-8  
Cap. 1**59. 公職人員所訂合約**

在任何由行政長官或由公職人員代行政長官、特區政府或特區政府部門簽署、簽立或訂立的合約或其他文件中，無須提稱行政長官或該公職人員的姓名，只須載有行政長官或該公職人員的職銜即可；而行政長官或該公職人員須當作為該合約或文件的一方當事人，一如行政長官或該公職人員在這事項上是一個永久延續的單一法團。

(由 1998 年第 26 號第 37 條修訂)

**60. (由 1998 年第 26 號第 19 條廢除)**

(具追溯力的適應化修訂——見 1998 年第 26 號第 19 條)

**61. 在公職人員簽名之後漏寫職銜無關重要**

任何由行政長官或公職人員簽署、簽立的合約或其他文件，不因在行政長官或該公職人員的簽名後漏加職銜而使第 59 條不適用於該合約或文件。

(由 1998 年第 26 號第 20 及 37 條修訂)

holder of such office, the person last appointed to the office shall be deemed to be the holder thereof. (*Amended L.N. 46 of 1991*)

**59. Contracts by public officer**

In any contract or other document, signed, executed or made by the Chief Executive or by any public officer on behalf of the Chief Executive or the Government or of any Government department, it shall not be necessary to name the Chief Executive or such public officer, but it shall be sufficient to name the office held by the Chief Executive or such public officer, and the Chief Executive or public officer shall be deemed to be a party thereto as if the Chief Executive or such public officer were a corporation sole with perpetual succession for this purpose.

(*Amended 26 of 1998 s. 37*)

**60. (Repealed 26 of 1998 s. 19)**

(Adaptation amendments retroactively made - see 26 of 1998 s. 19)

**61. Omission of title after signature of public officer immaterial**

The omission to add the title of the public office held by the Chief Executive or any public officer signing or executing any contract or other document after the signature of such officer shall not exclude such contract or other document from the operation of section 59.

(*Amended 26 of 1998 ss. 20 & 37*)

## 第 IX 部

### 特區政府、行政長官及行政長官會同行政會議

(由 1998 年第 26 號第 21 條代替。格式變更——2017 年第 1 號編輯修訂紀錄)

#### 62. 行政長官及行政長官會同行政會議命令的明示

- (1) 凡條例向行政長官或行政長官會同行政會議授予權力或委以職責，以訂立附屬法例、作出委任、發給指示、發出命令、授權作任何事情或事項、批給豁免、減免任何費用或刑罰，或行使其他權力或執行其他職責，所授予的權力或委以的職責——(編輯修訂——2017 年第 1 號編輯修訂紀錄)
  - (a) 如屬由行政長官行使或執行的，可由附表 6 指定的任何公職人員簽署示明行使或執行；(由 1972 年第 36 號第 3 條修訂)
  - (b) 如屬由行政長官會同行政會議行使或執行的，可由行政會議秘書簽署示明行使或執行。(由 1994 年第 14 號第 24 條修訂)
- (2) 訂立或發出文告須由行政長官會同行政會議簽署；本款規定不受第 (1) 款規限。
- (3) 行政長官會同行政會議可藉憲報刊登的命令，修訂附表 6。(由 1972 年第 36 號第 3 條增補)  
(由 1998 年第 26 號第 37 條修訂)

#### 63. 行政長官的轉授權

## Part IX

### Government, Chief Executive and Chief Executive in Council

(Replaced 26 of 1998 s. 21. Format changes—E.R. 1 of 2017)

#### 62. Signification of orders of Chief Executive and Chief Executive in Council

- (1) Where any Ordinance confers a power or imposes a duty upon the Chief Executive or the Chief Executive in Council to make any subsidiary legislation or appointment, give any directions, issue any order, authorize any thing or matter to be done, grant any exemption, remit any fee or penalty, or exercise any other power or perform any other duty, the exercise of such power or the performance of such duty may be signified—
  - (a) in the case of the Chief Executive, under the hand of any public officer specified in Schedule 6; (Amended 36 of 1972 s. 3)
  - (b) in the case of the Chief Executive in Council, under the hand of the Clerk to the Executive Council. (Amended 14 of 1994 s. 24)
- (2) Notwithstanding the provisions of subsection (1), proclamations shall be made or issued only under the hand of the Chief Executive in Council.
- (3) The Chief Executive in Council may, by order published in the Gazette, amend Schedule 6. (Added 36 of 1972 s. 3)  
(Amended 26 of 1998 s. 37)

#### 63. Delegation by Chief Executive

- (1) 凡條例向行政長官授予權力或委以職責，他可指名轉授給任何人，亦可轉授給擔任他所指明職位的人，代他行使這些權力或執行這些職責；由轉授時開始，或由行政長官指定的日期開始，獲轉授的人即掌有並可行使這些權力及須執行這些職責。
- (2) 第 (1) 款並不授權行政長官轉授權力予任何人訂立附屬法例、發出文告或裁決上訴。*(由 1998 年第 26 號第 22 條代替)*
- (3) 凡條例向行政長官授予權力或委以職責，而該權力由任何公職人員行使，或該職責由任何公職人員執行，則除非相反證明成立，行政長官須當作已根據第 (1) 款轉授給該公職人員行使該權力或執行該職責。

*(由 1998 年第 26 號第 37 條修訂)*

#### 64. 向行政長官會同行政會議提出的上訴及反對

- (1) 凡條例向任何人授予權利，使能向行政長官會同行政會議提出上訴或反對，這些上訴或反對須受按照第 (2) 款訂立的規則規限。*(由 1969 年第 54 號第 5 條代替)*
- (2) 行政長官會同行政會議可訂立規則，以規限向行政長官會同行政會議提出上訴或反對的程序。*(由 1969 年第 54 號第 5 條代替)*
- (3) 任何條例授予向行政長官會同行政會議提出上訴或反對的權利，並不因此而阻止任何人向高等法院提出依法有權利提出的履行義務令、移審令、禁止令、強制令或其他命令的申請，以代替向行政長官會同行政會議提出上訴或反對；但對於憑藉條例向行政長官會同行政會議提出的上訴或反對，或任何與這些上訴或反對有關連的程

- (1) Where any Ordinance confers powers or imposes duties upon the Chief Executive, he may delegate any person by name or the person holding any office designated by him to exercise such powers or perform such duties on his behalf and thereupon, or from the date specified by the Chief Executive, the person so delegated shall have and may exercise such powers and perform such duties.
- (2) Nothing in subsection (1) shall authorize the Chief Executive to delegate any person to make subsidiary legislation, issue proclamations or to determine any appeal. *(Replaced 26 of 1998 s. 22)*
- (3) Where any Ordinance confers powers or imposes duties upon the Chief Executive and such power is exercised or such duty is performed by any public officer, the Chief Executive shall, unless the contrary is proved, be deemed to have delegated such public officer under subsection (1) to exercise the power or perform the duty.

*(Amended 26 of 1998 s. 37)*

#### 64. Appeals and objections to Chief Executive in Council

- (1) Where any Ordinance confers upon any person a right of appeal or objection to the Chief Executive in Council, such appeal or objection shall be governed by rules made in accordance with subsection (2). *(Replaced 54 of 1969 s. 5)*
- (2) The Chief Executive in Council may make rules governing the procedure to be followed in appeals or objections to the Chief Executive in Council. *(Replaced 54 of 1969 s. 5)*
- (3) The conferring by any Ordinance of a right of appeal or objection to the Chief Executive in Council shall not prevent any person from applying to the High Court for an order of mandamus, certiorari, prohibition, injunction or any other order, instead of appealing or making an objection to the



序，則不得以履行義務令、移審令、禁止令、強制令或其他命令，對行政長官會同行政會議採取法律程序。（由 1969 年第 54 號第 5 條修訂；由 1998 年第 26 號第 23 條修訂）

- (4) 行政長官會同行政會議在考慮任何向其提出的上訴或反對時（不論上訴或反對是以請願書或其他形式提出，亦不論是憑藉條例或其他基礎提出），須以施政或行政身分，而非以司法或類似司法身分處事，且有絕對酌情決定權考慮及參照任何證據、資料、消息或意見。（由 1969 年第 54 號第 5 條修訂）
- (5) 行政長官會同行政會議在考慮因不滿任何人、公職人員或公共機構的決定而向其提出的上訴或反對時（不論上訴或反對是以請願書或其他形式提出，亦不論是憑藉條例或其他基礎提出），可維持、更改或推翻該決定，或代之以行政長官會同行政會議認為適當的其他決定，或作出認為適當的其他命令。（由 1969 年第 54 號第 5 條修訂）  
（由 1998 年第 26 號第 37 條修訂）

65. (由 1998 年第 26 號第 24 條廢除)  
(具追溯力的適應化修訂——見 1998 年第 26 號第 24 條)

#### 66. “國家”權利的保留

- (1) 除非條例明文訂定，或由於必然含意顯示“國家”須受約束，否則任何條例（不論條例是在 1997 年 7 月 1 日之前、當日或之後制定的）在一切情況下均不影響“國家”的權利，對“國家”亦不具約束力。

Chief Executive in Council, where an application for such an order would lie, but no proceedings by way of mandamus, certiorari, prohibition, injunction or other order shall be taken against the Chief Executive in Council in respect of any such appeal or objection to the Chief Executive in Council or any proceedings connected therewith. (Amended 54 of 1969 s. 5; 26 of 1998 s. 23)

- (4) The Chief Executive in Council, when considering any appeal or objection to him (whether by way of petition or otherwise, and whether such appeal or objection is made by virtue of any Ordinance or otherwise) shall act in an administrative or executive capacity and not in a judicial or quasi-judicial capacity and shall be entitled to consider and take into account any evidence, material, information or advice in his absolute discretion. (Amended 54 of 1969 s. 5)
- (5) The Chief Executive in Council, when considering any appeal or objection to him (whether by way of petition or otherwise and whether such appeal or objection is made by virtue of any Ordinance or otherwise) against any decision of any person, public officer or public body, may confirm, vary or reverse such decision or substitute therefor such other decision or make such other order as the Chief Executive in Council may think fit. (Amended 54 of 1969 s. 5)
- (Amended 26 of 1998 s. 37)

65. (Repealed 26 of 1998 s. 24)  
(Adaptation amendments retroactively made - see 26 of 1998 s. 24)

#### 66. Saving of rights of State

- (1) No Ordinance (whether enacted before, on or after 1 July 1997) shall in any manner whatsoever affect the right of or be binding on the State unless it is therein expressly provided



- (2) 《法律適應化修改(釋義條文)條例》(1998 年第 26 號) 第 24 條達成廢除及取代本條例原有的第 66 條一事，並不損害第 2A(2)(c) 條的實施(不論實施是在該項廢除及取代之前、之時或之後)。

(由 1998 年第 26 號第 24 條代替)

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or unless it appears by necessary implication that the State is bound thereby.

- (2) The repeal and substitution of the former section 66 of this Ordinance effected by section 24 of the Adaptation of Laws (Interpretative Provisions) Ordinance (26 of 1998) do not prejudice the operation of section 2A(2)(c), whether before, on or after that repeal and substitution.

(Replaced 26 of 1998 s. 24)

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**第 X 部****Part X****時間及距離****Time and Distance***(格式變更——2017 年第 1 號編輯修訂紀錄)**(Format changes—E.R. 1 of 2017)***67. 香港時間****67. Hong Kong Time**

- (1) 在條例中遇有表示時間的詞句，所指的時間是香港時間。
- (2) 就第 (1) 款而言，**香港時間** (Hong Kong Time) 指在香港一般通用的時間，即較國際標準時間早 8 小時或早另一時數的時間；該另一時數由立法會根據本款或根據《石油(保存及管制)條例》(第 264 章) 第 16 條藉決議而決定。(由 1979 年第 27 號第 17 條修訂)
- (3) 立法會根據第 (2) 款通過的決議，可決定全年或年內部分期間的香港時間。
- (4) 本條並不影響在天文、氣象、航海或航空用途上使用國際標準時間；如任何文件在有關這些用途方面提述或指某一時間，這些文件的釋疑亦不受本條影響。

- (1) Whenever any expression of time occurs in any Ordinance the time referred to is Hong Kong Time.
- (2) For the purposes of subsection (1), **Hong Kong Time** (香港時間) means the time used for general purposes throughout Hong Kong namely, 8 hours, or such other period as may be determined by the Legislative Council by resolution under this subsection or under section 16 of the Oil (Conservation and Control) Ordinance (Cap. 264), in advance of Universal Standard Time. *(Amended 27 of 1979 s. 17)*
- (3) A resolution of the Legislative Council under subsection (2) may determine Hong Kong Time for the whole or part of a year.
- (4) Nothing in this section shall affect the use of Universal Standard Time for the purposes of astronomy, meteorology, navigation or aviation, or affect the construction of any document mentioning or referring to a point of time in connection with any of these purposes.

*(由 1977 年第 17 號第 3 條代替。由 1998 年第 26 號第 25 及 37 條修訂)**(Replaced 17 of 1977 s. 3. Amended 26 of 1998 s. 25)***68. (由 1977 年第 17 號第 3 條廢除)****68. (Repealed 17 of 1977 s. 3)****69. 提述“上午”及“下午”的情況****69. References to “a.m.” and “p.m.”**

**上午**一詞表示由午夜至隨後的正午的一段時間，**下午**一詞表示由正午至隨後的午夜的一段時間；如這些詞聯用兩次於某

The expression **a.m.** indicates the period between midnight and the following noon, and the expression **p.m.** indicates the time between noon and the following midnight. Where 2 such expressions occur

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一指定時間，或聯用於“日落”或“日出”等詞，須解作關乎一段連接的時間。

## 70. 條文內並無訂明時間的情況

凡無訂明或限制在某特定時間內辦理的事情，不得作不合理的延擱，並須每遇適當情況時辦理。

## 71. 時間的計算

- (1) 就任何條例而言，計算時間辦法如下——
- (a) 由發生任何事件起計，或由作出任何作為或事情起計的一段時日，須當作不包括該事件發生的當天，或該作為、該事情作出的當天在內；
  - (b) 如一段期間的最後一天是公眾假日或烈風警告日或黑色暴雨警告日，該期間包括隨後並非公眾假日或烈風警告日或黑色暴雨警告日的一天在內；
  - (c) 凡作為或程序經指示或准許在某日作出或辦理，而該日是公眾假日或烈風警告日或黑色暴雨警告日，則如該作為或程序在隨後並非公眾假日或烈風警告日或黑色暴雨警告日的一天作出或辦理，即當為已依時作出或辦理；
  - (d) 凡作為或程序經指示或准許在一段不超過 6 日的時間內作出或辦理，則計算該段時間時，公眾假日或烈風警告日或黑色暴雨警告日不計在內。(由 1983 年第 43 號第 2 條修訂；由 1995 年第 68 號第 16 條修訂)
- (1A) 然而，如第 (1) 款所述的計算，是關乎在某法院辦事處作出某作為或辦理某程序的，則以下條文取代第 (1)(b)、(c) 及 (d) 款而適用於該項計算——
- (a) 如該作為或程序經指示或准許在一段期間內作出或辦理，而該期間的最後一天，是該辦事處的關閉日，

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conjunctively in relation to any specified hour or in conjunction with the word “sunset” or “sunrise”, they shall be construed as relating to a consecutive period of time.

## 70. Provision where no time prescribed

Where no time is prescribed or allowed within which any thing shall be done, such thing shall be done without unreasonable delay, and as often as due occasion arises.

## 71. Computation of time

- (1) In computing time for the purposes of any Ordinance—
- (a) a period of days from the happening of any event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;
  - (b) if the last day of the period is a public holiday or a gale warning day or black rainstorm warning day the period shall include the next following day, not being a public holiday or a gale warning day or black rainstorm warning day;
  - (c) where any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day is a public holiday or a gale warning day or black rainstorm warning day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next following day, not being a public holiday or a gale warning day or black rainstorm warning day;
  - (d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding 6 days, no public holiday, gale warning day or black rainstorm warning day shall be reckoned in the computation of

則該期間包括並非該辦事處的關閉日的隨後一天在內；

- (b) 如該作為或程序經指示或准許在某日作出或辦理，而該日是該辦事處的關閉日，則如該作為或程序在並非該辦事處的關閉日的隨後一天作出或辦理，即當為已依時作出或辦理；
- (c) 如該作為或程序經指示或准許在一段不超過 7 日的時間內作出或辦理，則計算該段時間時，該辦事處的關閉日不計在內。(由 2016 年第 18 號第 3 條增補)

(2) 在本條中——

**法院辦事處** (court office) 指香港司法機構的任何下列法院、法庭或審裁處的辦事處或登記處——

- (a) 終審法院；
- (b) 上訴法庭；
- (c) 原訟法庭；
- (d) 競爭事務審裁處；
- (e) 區域法院；
- (f) 裁判法院；
- (g) 土地審裁處；
- (h) 勞資審裁處；
- (i) 小額錢債審裁處；
- (j) 淫褻物品審裁處；
- (k) 死因裁判法庭；(由 2016 年第 18 號第 3 條增補)

**烈風警告日** (gale warning day) 指全日或其中部分時間有烈風警告的日子，而**烈風警告** (gale warning) 具有《司法程序(烈風警告期間聆訊延期)條例》(第 62 章)第 2 條給予該詞的涵義；

**黑色暴雨警告日** (black rainstorm warning day) 指全日或其中部分時間有黑色暴雨警告的日子，而**黑色暴雨警告** (black

that time. (Amended 43 of 1983 s. 2; 68 of 1995 s. 16; E.R. 1 of 2017)

(1A) However, if the computation mentioned in subsection (1) is in relation to the doing of an act or the taking of a proceeding at a court office, the following provisions apply to the computation to the exclusion of subsection (1)(b), (c) and (d)—

- (a) if the act or proceeding is directed or allowed to be done or taken within a period of time, and the last day of the period is a closure day for the office, the period includes the next following day, not being a closure day for the office;
- (b) if the act or proceeding is directed or allowed to be done or taken on a certain day, and that day is a closure day for the office, the act or proceeding is considered as done or taken in due time if it is done or taken on the next following day, not being a closure day for the office;
- (c) if the act or proceeding is directed or allowed to be done or taken within any time not exceeding 7 days, no closure day for the office is reckoned in the computation of that time. (Added 18 of 2016 s. 3)

(2) In this section—

**black rainstorm warning day** (黑色暴雨警告日) means any day throughout or for part of which a black rainstorm warning is in force, and **black rainstorm warning** (黑色暴雨警告) means a warning issued by the Director of the Hong Kong Observatory of a heavy rainstorm in, or in the vicinity of, Hong Kong by the use of the heavy rainstorm signal commonly referred to as Black; (Amended L.N. 362 of 1997)

**closure day** (關閉日), in relation to a court office, means a Saturday, a public holiday, a gale warning day, a black

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rainstorm warning) 指由香港天文台台長藉使用通常稱為黑色暴雨警告訊號的暴雨警告訊號而發出的關於在香港或香港附近出現暴雨的警告；(由 1995 年第 68 號第 16 條代替。由 1997 年第 362 號法律公告修訂；由 2016 年第 18 號第 3 條修訂)

**關閉日** (closure day) 就某法院辦事處而言，指星期六、公眾假日、烈風警告日、黑色暴雨警告日或該辦事處關閉的其他日子。(由 2016 年第 18 號第 3 條增補)

## 72. 延展時間的權力

凡條例訂明任何作為或程序須在一段時間內作出或辦理，並給予法庭、公共機構、公職人員或其他主管當局延展該段時間的權力，則即使延展所訂明時間的申請是在該段時間屆滿後才提出，該法庭、公共機構、公職人員或其他主管當局仍可行使該權力。

## 73. 距離

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rainstorm warning day, or another day on which the office is closed; (*Added 18 of 2016 s. 3*)

**court office** (法院辦事處) means an office or registry of one of the following courts or tribunals of the Judiciary of Hong Kong—

- (a) the Court of Final Appeal;
- (b) the Court of Appeal;
- (c) the Court of First Instance;
- (d) the Competition Tribunal;
- (e) the District Court;
- (f) the Magistrates' Court;
- (g) the Lands Tribunal;
- (h) the Labour Tribunal;
- (i) the Small Claims Tribunal;
- (j) the Obscene Articles Tribunal;
- (k) the Coroner's Court; (*Added 18 of 2016 s. 3*)

**gale warning day** (烈風警告日) means any day throughout or for part of which a gale warning is in force, and **gale warning** (烈風警告) has the meaning assigned to it by section 2 of the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62). (*Replaced 68 of 1995 s. 16*)

## 72. Power to extend time

Where in any Ordinance a time is prescribed for doing any act or taking any proceeding and power is given to a court, public body, public officer or other authority to extend such time, then the power may be exercised by the court, public body, public officer or other authority although the application for the same is not made until after the expiration of the time prescribed.

## 73. Distance

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第 74 條

就任何條例而言，量度任何距離時，須按地平面以直線量度。

**74. 令狀等在公眾假期有效**

發出、送達或執行傳票、通知書、令狀或其他法律程序文件，以及逮捕、搜查或檢取，均可於任何日子任何時間進行，不論是否公眾假期亦不分日夜。

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In the measurement of any distance for the purposes of any Ordinance, that distance shall be measured in a straight line on a horizontal plane.

**74. Warrants, etc. valid on public holiday**

Any summons, notice, warrant or other process may be issued, served or executed and any arrest, search or seizure may be carried out or made on any day, whether a public holiday or not, and at any hour of the day or night.

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## 第 XI 部

### 在香港實施的全國性法律

(由 1998 年第 26 號第 26 條代替。格式變更——2017 年第 1 號編輯修訂紀錄)

#### 75. 修改

在香港實施的全國性法律須予以司法認知為在香港實施的全國性法律，參閱應用時須對其中的名稱、地點、法庭、人員、人物、貨幣、刑罰或其他事項按需要加以修改，使能適用於香港環境。

(由 1998 年第 26 號第 27 條修訂)

#### 76. 在香港實施的全國性法律的引稱

引稱在香港實施的全國性法律時，可藉——

- (a) 引述該法律的全名以及通過或批准該法律的團體、組織或機關的名稱、該項通過或批准的日期而引稱；
- (b) 引述該法律的全名以及提述公布該法律的憲報或其他文書而引稱；或
- (c) 引述該法律的全名以及提述中央人民政府發出在香港實施該法律的命令而引稱。

(由 1998 年第 26 號第 28 條代替)

#### 77. (由 1998 年第 26 號第 29 條廢除)

(具追溯力的適應化修訂——見 1998 年第 26 號第 29 條)

#### 78. 對根據在香港實施的全國性法律訂立的附屬法例的提述

法律中所提述的在香港實施的全國性法律，包括任何根據或

## Part XI

### National Laws Applying in Hong Kong

(Replaced 26 of 1998 s. 26. Format changes—E.R. 1 of 2017)

#### 75. Modifications

A national law applying in Hong Kong shall be judicially noticed as such and shall be read with such modifications as to names, localities, courts, officers, persons, moneys, penalties or otherwise as may be necessary to make the same applicable to the circumstances of Hong Kong.

(Amended 26 of 1998 s. 27)

#### 76. Citation of national laws applying in Hong Kong

A national law applying in Hong Kong may be cited by its full name and—

- (a) the name of the body which adopted or approved it and the date on which it was adopted or approved;
- (b) reference to the Gazette or other instrument in which it is promulgated; or
- (c) reference to the order issued by the Central People's Government which applied it in Hong Kong.

(Replaced 26 of 1998 s. 28)

#### 77. (Repealed 26 of 1998 s. 29)

(Adaptation amendments retroactively made - see 26 of 1998 s. 29)

#### 78. Reference to subsidiary legislation under national laws applying in Hong Kong

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憑藉該全國性法律訂立而在香港具有立法效力的決議、規則、規例、文告、命令、公告、法院規則、附例或其他文書。

(由 1998 年第 26 號第 30 條修訂)

79. (由 1993 年第 89 號第 23 條廢除)

**80. 在香港實施的全國性法律文本**

在香港實施的全國性法律的文本，如——

- (a) 在憲報刊登或宣稱由政府印務局印刷；或
- (b) 載於任何宣稱是獲有關主管當局授權出版或印刷的合訂印本，

則直至相反證明成立，須當作為該全國性法律在出版或印刷當日的真確文本。

(由 1975 年第 2 號第 4 條代替。由 1998 年第 26 號第 31 條修訂)

**80A. 第 23 條對在香港實施的全國性法律適用**

凡某法律導致任何在香港實施的全國性法律的整條或部分不再屬此類全國性法律，則第 23 條的條文適用於該全國性法律和就該全國性法律而適用，一如該條適用於某條整條或部分已廢除的條例和就該條例而適用，但如該首述的法律或該全國性法律顯示相反用意，則屬例外。

(由 1998 年第 26 號第 32 條增補)

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A reference in any law to any national law applying in Hong Kong shall include a reference to any resolution, rule, regulation, proclamation, order, notice, rule of court, by-law or other instrument made under or by virtue thereof and having legislative effect in Hong Kong.

(Amended 26 of 1998 s. 30)

79. (Repealed 89 of 1993 s. 23)

**80. Copies of national laws applying in Hong Kong**

A copy of a national law applying in Hong Kong shall, if it—

- (a) is published in the Gazette or purports to be printed by the Government Printer; or
- (b) is contained in any printed collection purporting to be published or printed by authority,

be deemed, until the contrary is proved, to be an authentic copy of the national law as at the date of such publication or printing.

(Replaced 2 of 1975 s. 4. Amended 26 of 1998 s. 31)

**80A. Application of section 23 to national laws applying in Hong Kong**

Where a law causes a national law applying in Hong Kong to cease in whole or in part to be such a national law, then the provisions of section 23 shall apply to and in relation to the national law as it applies to and in relation to an Ordinance repealed in whole or in part save where the contrary intention appears from the first-mentioned law or the national law.

(Added 26 of 1998 s. 32)

**第 XII 部****新聞材料的搜查及檢取**

(由 1995 年第 88 號第 2 條增補。格式變更——2017 年第 1 號編輯修訂紀錄)

**81. 釋義**

在本部中，除文意另有所指外——

**處所** (premises) 包括任何地方，尤其包括——

- (a) 任何車輛、船隻、飛機或氣墊船；
- (b) 任何帳幕或可移動的構築物。

(由 1995 年第 88 號第 2 條增補)

**82. 新聞材料的涵義**

- (1) 在符合第 (2) 款的規定下，在本部中，**新聞材料** (journalistic material) 指為新聞傳播的目的而取得或製備的任何材料。
- (2) 就本部而言，如材料由某人管有，而該人是為新聞傳播的目的而取得或製備該材料的，該材料方屬新聞材料。
- (3) 凡某人自另一人處收取材料，而該另一人的意願為該收取材料的人須為新聞傳播的目的而使用該材料，則該收取材料的人須被視為是為該目的而取得該材料。

(由 1995 年第 88 號第 2 條增補)

**83. 進入處所及搜查或檢取的權力**

凡任何條例的條文賦權予任何人進入任何處所及搜查該處所或任何在該處所發現的人或檢取任何材料 (不論是一般的或特定的種類，亦不論是否在該條文內使用“材料”一詞)，或授權發出賦權予任何人作出以上作為的手令或令狀，則如無明

**Part XII****Search and Seizure of Journalistic Material**

(Added 88 of 1995 s. 2. Format changes—E.R. 1 of 2017)

**81. Interpretation**

In this Part, unless the context otherwise requires—

**premises** (處所) includes any place and in particular, includes—

- (a) any vehicle, vessel, aircraft or hovercraft;
- (b) any tent or movable structure.

(Added 88 of 1995 s. 2)

**82. Meaning of *journalistic material***

- (1) Subject to subsection (2), in this Part ***journalistic material*** (新聞材料) means any material acquired or created for the purposes of journalism.
- (2) Material is only journalistic material for the purposes of this Part if it is in the possession of a person who acquired or created it for the purposes of journalism.
- (3) A person who receives material from someone who intends that the recipient shall use it for the purposes of journalism is to be taken to have acquired it for those purposes.

(Added 88 of 1995 s. 2)

**83. Power to enter and search or seize**

A provision in any Ordinance which confers on, or authorizes the issue of a warrant conferring on, any person the power to enter any premises and to search the premises or any person found on the premises or to seize any material (whether of a general or

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文的相反規定，該條文不得解釋為賦權予任何人或授權發出手令或令狀以賦權予任何人為搜尋或檢取被知為或被懷疑是新聞材料的材料的目的是而進入處所。

(由 1995 年第 88 號第 2 條增補)

#### 84. 就新聞材料申請交出令

- (1) 任何獲第 83 條所適用的條文賦權或可能獲該條文賦權進入任何處所及搜查該處所或任何在該處所發現的人或檢取任何材料的人，均可就被知為或被懷疑是新聞材料的材料向原訟法庭法官或區域法院法官申請第 (2) 款下的命令。(由 1998 年第 26 號第 33 條修訂)
- (2) 在有申請根據第 (1) 款作出後，如法官信納第 (3) 款內的條件已獲符合，即可命令看似管有申請書所指明的新聞材料的人，在由命令的日期起計的 7 日期間完結之前或在命令所指明的較長期間完結之前——(由 1998 年第 26 號第 37 條修訂)
  - (a) 將該項新聞材料交予申請人帶走；或
  - (b) 讓申請人取用該項新聞材料。
- (3) 為施行第 (2) 款而須予符合的條件如下——
  - (a) 有合理理由相信——
    - (i) 有人已犯可逮捕的罪行；
    - (ii) 申請書所指明的處所內有構成或包括被知為或被懷疑是新聞材料的材料；
    - (iii) 有關材料相當可能——
      - (A) 對就該可逮捕的罪行而進行的調查有重大價值；或

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particular kind and whether or not the word “material” is used in that provision) shall not, in the absence of an express provision to the contrary, be construed as conferring, or authorizing the issue of a warrant conferring, a power to enter premises where such entry is for the purpose of searching for or seizing material which is known or suspected to be journalistic material.

(Added 88 of 1995 s. 2)

#### 84. Application for production order in respect of journalistic material

- (1) A person on whom there is or may be conferred under a provision in any Ordinance, being a provision to which section 83 applies, the power to enter any premises and to search the premises or any person found on the premises or to seize any material, may apply to a judge of the Court of First Instance or District Court for an order under subsection (2) in relation to material which is known or suspected to be journalistic material. (Amended 26 of 1998 s. 33)
- (2) If on an application under subsection (1) a judge is satisfied that the conditions in subsection (3) are fulfilled he may make an order that the person who appears to be in possession of journalistic material specified in the application shall—
  - (a) produce it to the applicant to take away; or
  - (b) give the applicant access to it,
 not later than the end of the period of 7 days from the date of the order or the end of such longer period as the order may specify.
- (3) The conditions to be fulfilled for the purposes of subsection (2) are that—
  - (a) there are reasonable grounds for believing—
    - (i) that an arrestable offence has been committed;

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- (B) 在就該可逮捕的罪行而進行的法律程序中為有關證據；
- (b) 若非有第 83 條的規定，申請人即會或本可根據第 (1) 款所述的條文獲授權進入申請書所指明的處所及搜查該處所或在該處所發現的人或檢取申請書所指明的材料；
- (c) (i) 已嘗試用其他方法獲取該材料，但已失敗；或  
(ii) 因相當可能會不成功或相當可能會嚴重損害調查而並未嘗試用其他方法獲取該材料；及
- (d) 有合理理由相信在顧及以下因素後，作出該命令是符合公眾利益的——
- (i) 該命令相當可能會為該項調查帶來的利益；及  
(ii) 管有該材料的人是在甚麼情況下持有該材料。
- (4) 第 (2) 款下的命令的申請須屬各方之間的申請。
- (5) 任何人無合理因由而不遵從根據第 (2) 款所作出的命令，即屬犯罪，可處第 6 級罰款及監禁 1 年。

(由 1995 年第 88 號第 2 條增補)

- (ii) that there is material which consists of or includes material known or suspected to be journalistic material on premises specified in the application;
- (iii) that the material is likely to be—
- (A) of substantial value to the investigation of the arrestable offence; or
- (B) relevant evidence in proceedings for the arrestable offence;
- (b) but for section 83 the applicant would be or could have been authorized under the provision mentioned in subsection (1) to enter onto the premises specified in the application and to search the premises or a person found on the premises or to seize the material specified in the application;
- (c) other methods of obtaining the material—
- (i) have been tried and failed; or
- (ii) have not been tried because they were unlikely to succeed or would be likely to seriously prejudice the investigation; and
- (d) there are reasonable grounds for believing that it is in the public interest that an order should be granted, having regard to—
- (i) the benefit likely to accrue to the investigation; and
- (ii) the circumstances under which a person in possession of the material holds it.
- (4) An application for an order under subsection (2) shall be made inter partes.
- (5) Any person who without reasonable cause fails to comply with an order made under subsection (2) commits an offence



**85. 申請檢取新聞材料的手令**

- (1) 任何獲第 83 條所適用的條文賦權或可能獲該條文賦權進入任何處所及搜查該處所或任何在該處所發現的人或檢取任何材料的人，均可向原訟法庭法官或區域法院法官申請發出第 (3) 款下的手令，以授權他為搜尋或檢取被知為或被懷疑是新聞材料的材料的目的是而進入該處所。（由 1998 年第 26 號第 34 條修訂）
- (2) 本條下的手令的申請，須經附表 7 指明為紀律部隊首長級人員批准方可作出。
- (3) 在有申請根據第 (1) 款作出後，如法官——（由 1998 年第 26 號第 37 條修訂）
  - (a) 信納——
    - (i) 第 84(3)(a)、(c) 及 (d)(i) 條所指明的條件已獲符合；及
    - (ii) 第 (5) 款所列的進一步條件的其中一項亦已獲符合；或
  - (b) 信納第 84 條下的與該材料有關的命令並沒有獲得遵從，  
即可在符合第 (4) 款的規定下發出手令，授權申請人進入該處所及搜查該處所及在該處所發現的人及檢取任何材料。
- (4) 根據第 (3) 款發出的手令不得就任何進入、搜查或檢取作出授權，但若非有第 83 條的規定即會或本可根據第 (1) 款所述的條文獲授權的進入、搜查或檢取則除外。
- (5) 第 (3)(a)(ii) 款所述的進一步條件如下——

and is liable to a fine at level 6 and to imprisonment for 1 year.

*(Added 88 of 1995 s. 2)*

**85. Application for warrant to seize journalistic material**

- (1) A person on whom there is or may be conferred under a provision in any Ordinance, being a provision to which section 83 applies, the power to enter any premises and to search the premises or any person found on the premises or to seize any material, may apply to a judge of the Court of First Instance or District Court for the issue of a warrant under subsection (3) authorizing him to enter those premises for the purpose of searching for or seizing material which is known or suspected to be journalistic material. *(Amended 26 of 1998 s. 34)*
- (2) An application for a warrant under this section shall not be made unless it has been approved by a person specified in Schedule 7 to be a directorate disciplined officer.
- (3) If on an application under subsection (1) a judge—
  - (a) is satisfied—
    - (i) that the conditions specified in section 84(3)(a), (c) and (d)(i) are fulfilled; and
    - (ii) that one of the further conditions set out in subsection (5) is also fulfilled; or
  - (b) is satisfied that an order under section 84 relating to the material has not been complied with,  
he may, subject to subsection (4), issue a warrant authorizing the applicant to enter onto the premises and to search the premises and any person found on the premises and to seize any material.



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- (a) 與任何有權批准進入有關申請所涉及的處所的人溝通並不切實可行；
- (b) 與有權批准進入該處所的人溝通雖然可能切實可行，但與任何有權批准取用該有關材料的人溝通並不切實可行；
- (c) 送達申請第 84(2) 條下的命令的通知可能會嚴重損害有關調查。
- (6) 除第 (7) 款另有規定外，根據本條發出的任何手令，須附有一項條款，內容為依據手令檢取新聞材料的人須在檢取材料後將之密封及持有該密封材料，直至根據第 87 條另有授權或規定為止。
- (7) 凡法官信納不准許申請人立即取用該材料可能會嚴重損害有關調查，第 (6) 款即不適用。(由 1998 年第 26 號第 37 條修訂)
- (8) 任何獲根據本條發出的手令賦權的人可——
- (a) 使用必需的武力以進入手令所指明的處所；
- (b) 在該處所檢取所發現而若非有第 83 條的規定他即會或本可根據第 (1) 款所述的條文獲授權接管的材料(包括新聞材料)；
- (c) 將任何在該處所發現並可能管有或控制該材料的人扣留一段合理時間，而該人須屬若非被如此扣留即可能損害搜尋的目的者。

(由 1995 年第 88 號第 2 條增補)

- (4) A warrant issued under subsection (3) shall not authorize any entry, search or seizure other than such entry, search or seizure as, but for section 83, would be or could have been authorized under the provision mentioned in subsection (1).
- (5) The further conditions mentioned in subsection (3)(a)(ii) are—
- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises to which the application relates;
- (b) that while it might be practicable to communicate with a person entitled to grant entry to the premises, it is not practicable to communicate with any person entitled to grant access to the material;
- (c) that service of notice of an application for an order under section 84(2) may seriously prejudice the investigation.
- (6) Subject to subsection (7), it shall be a term of any warrant issued under this section that a person who seizes journalistic material pursuant to the warrant shall seal the material upon seizure and shall hold the sealed material until otherwise authorized or required under section 87.
- (7) Subsection (6) shall not apply where the judge is satisfied that there may be serious prejudice to the investigation if the applicant is not permitted to have immediate access to the material.
- (8) Any person empowered by a warrant issued under this section may—
- (a) use such force as may be necessary to enter the premises specified in the warrant;
- (b) on the premises, seize such material, including journalistic material, as may be found and as but for

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### 86. 為第 85 條所訂手令而訂定的進一步條文

- (1) 除第 85(7) 條適用的手令外，根據第 85 條發出的手令須——
  - (a) 指明申請人的姓名及發出手令的法院；
  - (b) 載有一項陳述，列明——
    - (i) 憑藉該條第 (6) 款而適用的手令條款；
    - (ii) 根據第 87 條而賦予於指明期間內申請立即交還根據手令檢取的新聞材料的權利，以及該條所規定沒有如此申請的後果。
- (2) 執行或尋求執行該手令的人須遵從下述規定——
  - (a) 如所進入的處所的佔用人不在場，則將該手令的副本交給該佔用人；
  - (b) 如該處所的佔用人不在場，但看似掌管該處所的其他人在場，則將該手令的副本交給該人；
  - (c) 如並沒有看似掌管該處所的人在場，則將該手令的副本留在該處所的顯眼地方。
- (3) 如檢取的材料依據該手令須予密封及持有，執行該手令的人須在該手令上作出批註，列明該材料的細節，並須將手令交還發出該手令的法院。

(由 1995 年第 88 號第 2 條增補)

section 83 he would be or could have been authorized under the provision mentioned in subsection (1) to take possession of;

- (c) detain for a reasonable period any person found on the premises who may have such material in his possession or under his control and who if not so detained may prejudice the purpose of the search.

(Added 88 of 1995 s. 2)

### 86. Further provision for warrants under section 85

- (1) A warrant issued under section 85, other than a warrant to which subsection (7) of that section applies, shall—
  - (a) specify the name of the applicant and the court issuing the warrant;
  - (b) contain a statement setting out—
    - (i) the terms of the warrant applying by virtue of subsection (6) of that section;
    - (ii) the rights conferred under section 87 to apply within a specified period for the immediate return of journalistic material seized under the warrant, and the consequences provided for in that section of not so applying.
- (2) A person executing or seeking to execute such a warrant shall—
  - (a) where the occupier of the premises being entered is present, supply the occupier with a copy of the warrant;
  - (b) where the occupier of the premises is not present but some other person who appears to be in charge of the premises is present, supply that person with a copy of the warrant;

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第 1 章第 XII 部  
第 87 條Part XII  
Section 8712-14  
Cap. 1**87. 與密封材料有關的程序**

- (1) 凡依據根據第 85 條發出的手令(該條第(7)款所適用的手令除外)自某人處檢取新聞材料,該人或聲稱是該材料的擁有人的人,可於該項檢取 3 日內向發出該手令的法院申請第(2)款下的命令。
  - (2) 凡有材料自某人處檢取,在有申請根據第(1)款作出後,除非法官信納將有關材料作調查之用符合公眾利益,否則他即須命令將之立即交還該人;而法官根據本款作出裁定時須顧及的事宜包括於檢取有關材料時該材料被持有的情況。
  - (3) 在有申請根據第(1)款作出後,如法官裁定不根據第(2)款作出命令,或如沒有任何申請在第(1)款指明的期間內根據該款作出,則有關材料可予以開封。
  - (4) 為裁定根據第(1)款作出的申請,法官可要求檢取有關材料的人將該材料交予他查驗。
  - (5) 第(1)款下的命令的申請須屬各方之間的申請。
- (由 1995 年第 88 號第 2 條增補。由 1998 年第 26 號第 37 條修訂)

(c) if there is no person present who appears to be in charge of the premises, leave a copy of the warrant in a prominent place on the premises.

- (3) Where pursuant to such a warrant material is seized which is required to be sealed and held, the person executing the warrant shall make an endorsement on the warrant setting out details of such material and shall return the warrant to the court from which it was issued.

*(Added 88 of 1995 s. 2)*

**87. Procedure in relation to sealed material**

- (1) A person from whom journalistic material has been seized pursuant to a warrant issued under section 85, other than a warrant to which subsection (7) of that section applies, or a person claiming to be the owner of such material, may within 3 days of such seizure apply to the court from which the warrant was issued for an order under subsection (2).
- (2) On an application under subsection (1), unless the judge is satisfied that it would be in the public interest that the material be made use of for the purposes of the investigation, he shall order that the material be immediately returned to the person from whom it was seized; and in making a determination under this subsection the judge shall have regard to, among other things, the circumstances under which the material was being held at the time of its seizure.
- (3) If on an application under subsection (1) the judge determines not to grant an order under subsection (2), or where no application has been made under subsection (1) within the period specified in that subsection, the material may be unsealed.

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第 1 章第 XII 部  
第 88 條Part XII  
Section 8812-16  
Cap. 1**88. 第 84 條的補充條文**

- (1) 就由藏於電腦的資料所構成的材料而言 ——
  - (a) 第 84(2)(a) 條下的命令所具有的效力，如同其為規定將材料以可帶走以及可看見及可閱讀的形式交出的命令一樣；及
  - (b) 第 84(2)(b) 條下的命令所具有的效力，如同其為讓申請人取用以可看見及可閱讀形式出示的材料的命令一樣。
- (2) 申請根據第 84(2) 條作出命令的通知書，可藉將通知書交付有關人士、將通知書留在該人的適當地址或將通知書以掛號郵遞方式寄給該人的方式予以送達。
- (3) 上述通知書 ——
  - (a) 可藉送達予《公司條例》(第 622 章)第 2(1) 條所指的法人團體的高級人員的方式送達該法人團體；及 (*由 2012 年第 28 號第 912 及 920 條修訂*)
  - (b) 可藉送達予合夥的其中一名合夥人的方式送達該合夥。
- (4) 為施行第 84 條，有關人士的適當地址如下 ——
  - (a) 如該人屬法人團體的高級人員，適當地址為該法人團體的註冊辦事處或主要辦事處的地址；
  - (b) 如該人屬商號的合夥人，適當地址為該商號的主要辦事處的地址；及

- (4) For the purpose of determining an application under subsection (1) a judge may require the person who seized the material to produce it to the judge for examination by him.
- (5) An application for an order under subsection (1) shall be made inter partes.

*(Added 88 of 1995 s. 2)***88. Provisions supplementary to section 84**

- (1) In relation to material consisting of information contained in a computer—
  - (a) an order under section 84(2)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible; and
  - (b) an order under section 84(2)(b) shall have effect as an order to give an applicant access to the material in a form in which it is visible and legible.
- (2) Notice of an application for an order under section 84(2) may be served on a person either by delivering it to him or by leaving it at his proper address or by sending it by post to him in a registered letter.
- (3) Such a notice may be served—
  - (a) on a body corporate, by serving it on a person who is an officer of the body within the meaning of section 2(1) of the Companies Ordinance (Cap. 622); and (*Amended 28 of 2012 ss. 912 & 920*)
  - (b) on a partnership, by serving it on one of the partners.
- (4) For the purposes of section 84, the proper address of a person—
  - (a) in the case of an officer of a body corporate, shall be that of the registered or principal office of that body;

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第 1 章第 XII 部  
第 89 條

- (c) 如屬其他情況，適當地址為須獲送達通知書的人最後為人所知的地址。
- (5) 凡申請根據第 84 條作出命令的通知書已經送達某人，則除非——
- (a) 取得法官的許可；或 (由 1998 年第 26 號第 37 條修訂)
- (b) 取得申請人的書面批准，否則該人不得將與該項申請有關的材料隱藏、銷毀、更改或處置，直至——
- (i) 該項申請已遭駁回或放棄；或
- (ii) 該人已遵從應該項申請而根據第 84 條作出的命令。
- (6) 任何人明知而違反第 (5) 款，即屬犯罪，可處第 6 級罰款及監禁 1 年。

*(由 1995 年第 88 號第 2 條增補)***89. 雜項條文**

- (1) 根據本部作出的任何申請的訟費，及依據根據本部作出的命令而作出或將予作出的任何事情之訟費，均由法官酌情決定。
- (2) 為免生疑問，現聲明：本部任何條文均不得解釋為規定法官在他認為根據本部作出命令在有關個案的所有情況下不會符合公眾利益的情況下，仍須作出該項命令。
- (3) 除非法官另有指示，否則根據本部進行的各方之間的法律程序，均須在公開法庭進行。
- (4) 法院規則可就適用於根據本部進行的法律程序的常規及程序訂定條文。

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- (b) in the case of a partner of a firm, shall be that of the principal office of the firm; and
- (c) in any other case, shall be the last known address of the person to be served.
- (5) Where notice of an application for an order under section 84 has been served on a person, he shall not conceal, destroy, alter or dispose of the material to which the application relates except—
- (a) with the leave of a judge; or
- (b) with the written permission of the applicant, until—
- (i) the application is dismissed or abandoned; or
- (ii) he has complied with an order under section 84 made on the application.
- (6) Any person who knowingly contravenes subsection (5) commits an offence and is liable to a fine at level 6 and to imprisonment for 1 year.

*(Added 88 of 1995 s. 2)***89. Miscellaneous**

- (1) The costs of any application under this Part and of anything done or to be done in pursuance of an order made under it shall be at the discretion of the judge.
- (2) For the avoidance of doubt, it is declared that nothing in this Part shall be construed as requiring a judge to make an order under this Part where he considers that, in all the circumstances of the case, it would not be in the public interest to make that order.
- (3) Unless a judge otherwise directs, proceedings inter partes under this Part shall be held in open court.

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(由 1995 年第 88 號第 2 條增補。由 1998 年第 26 號第 37 條修訂)

(4) Rules of court may provide for the practice and procedure applying to proceedings under this Part.

*(Added 88 of 1995 s. 2)*

**90. 附表 7 的修訂**

行政長官會同行政會議可藉於憲報刊登的命令，修訂附表 7 以更改其內對紀律部隊首長級人員的指明。

(由 1995 年第 88 號第 2 條增補。由 1998 年第 26 號第 37 條修訂)

**90. Amendment of Schedule 7**

The Chief Executive in Council may, by order published in the Gazette, amend the persons specified in Schedule 7 to be directorate disciplined officers.

*(Added 88 of 1995 s. 2. Amended 26 of 1998 s. 37)*

**91.** (由 1993 年第 89 號第 27 條廢除)

**91.** *(Repealed 89 of 1993 s. 27)*

**91A.** (由 1993 年第 89 號第 27 條廢除)

**91A.** *(Repealed 89 of 1993 s. 27)*

**92.** (由 1993 年第 89 號第 26 條廢除)

**92.** *(Repealed 89 of 1993 s. 26)*

**93-97.** (由 1993 年第 89 號第 27 條廢除)

**93-97.** *(Repealed 89 of 1993 s. 27)*



## 第 XIII 部

### 雜項

(格式變更——2012 年第 1 號編輯修訂紀錄)

#### 98. 憲報內條例等的文本

- (1) 條例的文本如在憲報刊登，須當作為該條例在刊登當日的真確文本。(由 1990 年第 51 號第 4 條修訂)
- (2) 其他文書的文本如在憲報刊登，或宣稱由政府印務局印刷，則在任何法庭及為任何目的而出示時，均須接受為該文書的表面證據而無須再加證明。

(由 1975 年第 2 號第 5 條代替)

98A. (由 2011 年第 13 號第 30 條廢除)

98B. (由 2011 年第 13 號第 31 條廢除)

98C. (由 2011 年第 13 號第 32 條廢除)

99. (由 2011 年第 13 號第 33 條廢除)

100. (由 1993 年第 89 號第 27 條廢除)

#### 100A. 提高罰款的權力

- (1) 立法會可藉決議修訂條例，以提高下列罰款額——(由 1998 年第 26 號第 37 條修訂)
  - (a) 該條例所指定的罰款額；及

## Part XIII

### Miscellaneous

(Format changes—E.R. 1 of 2012)

#### 98. Copies of Ordinances, etc. in Gazette

- (1) A copy of an Ordinance shall, if published in the Gazette, be deemed to be an authentic copy of that Ordinance as at the date of such publication. (Amended 51 of 1990 s. 4)
- (2) A copy of any other instrument shall, if published in the Gazette or purporting to be printed by the Government Printer, on its production be admitted as prima facie evidence thereof in all courts and for all purposes whatsoever without any further proof.

(Replaced 2 of 1975 s. 5)

98A. (Repealed 13 of 2011 s. 30)

98B. (Repealed 13 of 2011 s. 31)

98C. (Repealed 13 of 2011 s. 32)

99. (Repealed 13 of 2011 s. 33)

100. (Repealed 89 of 1993 s. 27)

#### 100A. Power to increase fines

- (1) The Legislative Council may, by resolution, amend an Ordinance so as to increase—
  - (a) the amount of a fine specified in the Ordinance; and

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- (b) 該條例所指定的以便根據該條例訂立的附屬法例可予訂明的罰款額。(由 1994 年第 58 號第 5 條代替)
- (1A) 根據第 (1) 款所提高的罰款額，可以款額形式或以《刑事訴訟程序條例》(第 221 章)附表 8 內的罰款級別的形式述明。(由 1994 年第 58 號第 5 條增補)
- (2) 為施行上的需要或便利，根據本條通過的決議可載有附帶、相應及補充條文，以使該決議能切實施行。  
(由 1981 年第 23 號第 3 條增補)

編輯附註：

本條原為第 88A 條，後憑藉 1993 年第 89 號第 27 條重新制訂為第 100A 條。

**101. 附表的修訂**

行政長官會同行政會議可不時藉憲報公告，修訂本條例所有或任何附表(附表 1 及 9 除外)。

(由 1998 年第 26 號第 35 及 37 條修訂)

**102. 附表 1 及 9 的修訂**

律政司司長可藉憲報公告修訂附表 1 或廢除附表 9 的任何條文。

(由 1998 年第 26 號第 36 條增補)

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- (b) the amount of a fine specified in the Ordinance as an amount that may be prescribed in subsidiary legislation made under the Ordinance. *(Replaced 58 of 1994 s. 5)*
- (1A) The increase under subsection (1) may be expressed as an amount of money or as a level in Schedule 8 to the Criminal Procedure Ordinance (Cap. 221). *(Added 58 of 1994 s. 5)*
- (2) A resolution under this section may contain such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to the resolution.

*(Added 23 of 1981 s. 3)*

Editorial Note:

This provision previously appeared in s. 88A. By virtue of 89 of 1993 s. 27, it was re-enacted as s. 100A.

**101. Amendment of Schedules**

The Chief Executive in Council may from time to time, by notice in the Gazette, amend all or any of the Schedules (except Schedules 1 and 9).

*(Amended 26 of 1998 ss. 35 & 37)*

**102. Amendment of Schedules 1 and 9**

The Secretary for Justice may, by notice in the Gazette, amend Schedule 1 or repeal any of the provisions of Schedule 9.

*(Added 26 of 1998 s. 36)*

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## 附表 1

[ 第 102 條及附表 9]  
(由 1998 年第 26 號第 38 條修訂)

### 維多利亞市的界線

(格式變更——2012 年第 1 號編輯修訂紀錄)

北面界線 —— 海港；

西面界線 —— 由北至南畫一線，穿過內地段 1299 號的西北角位，並由該角位向南伸展 850 呎；

南面界線 —— 由西面界線的南端向東畫一線，直至與龍虎山附近高出主要基準面 700 呎的等高線相接，即在稱為“利福民的螺釘”的水準標誌（按地平面嵌於皇家海軍辦事處及海軍船塢膳樓東牆的銅螺釘的最高點）對下 17.833 呎相接，然後沿該等高線畫至與東面界線相接為止；

## Schedule 1

[s. 102 & Sch. 9]  
(Amended 26 of 1998 s. 38)

### Boundaries of the City of Victoria

(Format changes—E.R. 1 of 2012)

On the north—The Harbour;

On the west—A line running due north and south drawn through the north-west angle of Inland Lot No. 1299 and extending southwards a distance of 850 feet from the aforesaid angle;

On the south—A line running due east from the southern extremity of the western boundary until it meets a contour in the vicinity of the Hill above Belchers 700 feet above principal datum, that is to say, a level 17.833 feet below the bench-mark known as “Rifleman’s Bolt”, the highest point of a copper bolt set horizontally in the east wall of the Royal Navy Office and Mess Block Naval Dockyard, and thence following the said contour until it meets the eastern boundary;

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第 1 章

附表 1

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東面界線 —— 沿銅鑼灣政府碼頭西邊畫一線，跟着沿興發街西邊，續沿高士威道北邊畫至摩頓台，後沿摩頓台西邊畫至內地段 1580 號東南角，續以直線延展 80 呎，然後沿棉花路北邊，再延至與黃泥涌谷以東的黃泥涌道西邊相接，續延至內地段 1364 號東南角，之後延至與南面界線相接為止。

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On the east—A line following the west side of the Government Pier, Bay View and thence along the west side of Hing Fat Street, then along the north side of Causeway Road to Moreton Terrace. Thence along the west side of Moreton Terrace to the south-east corner of Inland Lot No. 1580 and produced in a straight line for 80 feet, and thence along the north side of Cotton Path and produced until it meets the west side of Wong Nei Chong Road on the east side of Wong Nei Chong Valley and thence to the south-east angle of Inland Lot No. 1364, produced until it meets the southern boundary.

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附表 2

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## 附表 2

[ 第 3 條 ]

## Schedule 2

[s. 3]

### 組成香港特別行政區的陸地及海域

(格式變更——2012 年第 1 號編輯修訂紀錄)

### The Land and Sea Comprising the Hong Kong Special Administrative Region

(Format changes—E.R. 1 of 2012)

在 1997 年第 6 期《憲報第 5 號特別副刊》刊登的 1997 年 7 月 1 日《中華人民共和國國務院令》第 221 號 # 所公布、組成中華人民共和國香港特別行政區行政區域界線之內的陸地及海域。

(由 1998 年第 26 號第 39 條代替)

The land and sea comprised within the boundary of the administrative division of the Hong Kong Special Administrative Region of the People's Republic of China promulgated by the Order of the State Council of the People's Republic of China No. 221 dated 1 July 1997 and published as S.S. No. 5 to Gazette No. 6/1997 of the Gazette#.

(Replaced 26 of 1998 s. 39)

編輯附註：

# 請參閱文件 A207。

Editorial Note:

# Please see Instrument A207.

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附表 3

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### 附表 3

[ 第 3 條 ]

### Schedule 3

[s. 3]

#### 海港的界線

(格式變更——2012 年第 1 號編輯修訂紀錄)

東面界線——由小酒灣尖最西端起，畫一直線至阿公岩尖(有時稱為公岩)最西端為止；

西面界線——由香港島最西之點起，畫一直線至青洲最西之點，然後由該點畫一直線至青衣島最東南之點，再沿青衣島東海岸線及北海岸線畫至青衣島最西端，續由該處以直線向正北畫至大陸。(由 1969 年第 54 號第 8 條修訂)

#### Boundaries of the Harbour

(Format changes—E.R. 1 of 2012)

On the east—A straight line drawn from the westernmost extremity of Siu Chau Wan Point to the westernmost extremity of Ah Kung Ngam Point (sometimes known as Kung Am);

On the west—A straight line drawn from the westernmost point of Island of Hong Kong to the westernmost point of Green Island, thence a straight line drawn from the westernmost point of Green Island to the south-easternmost point of Tsing Yi, thence along the eastern and northern coast lines of Tsing Yi to the westernmost extremity of Tsing Yi and thence a straight line drawn true north therefrom to the mainland. (Amended 54 of 1969 s. 8)



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附表 4

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## 附表 4

[ 第 3 條 ]

### 九龍的範圍

(格式變更——2012 年第 1 號編輯修訂紀錄)

**九龍** (Kowloon) 指九龍半島的一部分，即在 1860 年 10 月 24 日成為香港一部分的該部分。

(由 1998 年第 26 號第 40 條修訂)

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## Schedule 4

[s. 3]

### Area of Kowloon

(Format changes—E.R. 1 of 2012)

**Kowloon** (九龍) means that portion of the peninsula of Kaulung which became part of Hong Kong on 24 October 1860.

(Amended 26 of 1998 s. 40)

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S5-1  
第 1 章

附表 5

Schedule 5

S5-2  
Cap. 1

## 附表 5

[ 第 3 條 ]

### 新九龍的範圍

(格式變更——2012 年第 1 號編輯修訂紀錄)

**新九龍** (New Kowloon) 指新界的一部分，即在存於土地註冊處的一份標明“新九龍”的圖則(日期為 1937 年 12 月 8 日，由工務司簽署及由總督加簽者)上所見、以紅色描畫出的部分。

(由 1993 年第 8 號第 2 條修訂)

## Schedule 5

[s. 3]

### Area of New Kowloon

(Format changes—E.R. 1 of 2012)

**New Kowloon** (新九龍) means that portion of the New Territories which is delineated in red and shown upon a plan marked “New Kowloon” dated the 8 December 1937, signed by the Director of Public Works, countersigned by the Governor and deposited in the Land Registry.

(Amended 8 of 1993 s. 2)

S5A-1  
第 1 章

附表 5A

Schedule 5A

S5A-2  
Cap. 1

## 附表 5A

[ 第 3 條 ]

### 新界的範圍

(格式變更——2012 年第 1 號編輯修訂紀錄)

香港的所有地方，但不包括在緊接 1898 年 6 月 9 日之前組成香港界線之內的陸地及海域。

(附表 5A 由 1998 年第 26 號第 41 條增補)

## Schedule 5A

[s. 3]

### Area of New Territories

(Format changes—E.R. 1 of 2012)

All of Hong Kong except the land and sea comprised within the boundary of Hong Kong immediately before 9 June 1898.

(Schedule 5A added 26 of 1998 s. 41)

S6-1  
第 1 章

附表 6

Schedule 6

S6-2  
Cap. 1

## 附表 6

[ 第 62 條 ]

### 公職人員

( 格式變更 — 2012 年第 1 號編輯修訂紀錄 )

政務司司長  
財政司司長  
律政司司長  
政務司副司長  
財政司副司長  
律政司副司長  
公務員事務局局長  
商務及經濟發展局局長  
政制及內地事務局局長  
文化體育及旅遊局局長  
發展局局長  
教育局局長  
環境及生態局局長  
財經事務及庫務局局長  
醫務衛生局局長  
民政及青年事務局局長  
房屋局局長  
創新科技及工業局局長  
勞工及福利局局長  
保安局局長  
運輸及物流局局長  
副局長  
常任秘書長  
行政署長  
民政事務總署署長  
副秘書長  
副行政署長

## Schedule 6

[s. 62]

### Public Officers

(Format changes—E.R. 1 of 2012)

Chief Secretary for Administration  
Financial Secretary  
Secretary for Justice  
Deputy Chief Secretary for Administration  
Deputy Financial Secretary  
Deputy Secretary for Justice  
Secretary for the Civil Service  
Secretary for Commerce and Economic Development  
Secretary for Constitutional and Mainland Affairs  
Secretary for Culture, Sports and Tourism  
Secretary for Development  
Secretary for Education  
Secretary for Environment and Ecology  
Secretary for Financial Services and the Treasury  
Secretary for Health  
Secretary for Home and Youth Affairs  
Secretary for Housing  
Secretary for Innovation, Technology and Industry  
Secretary for Labour and Welfare  
Secretary for Security  
Secretary for Transport and Logistics  
Under Secretary  
Permanent Secretary  
Director of Administration  
Director of Home Affairs  
Deputy Secretary  
Deputy Director of Administration

S6-3  
第 1 章

附表 6

首席助理秘書長  
助理行政署長

(附表 6 由 2007 年第 134 號法律公告代替。由 2008 年第 49 號法律公告修訂；編輯修訂——2012 年第 1 號編輯修訂紀錄；由 2015 年第 227 號法律公告修訂；由 2022 年第 149 號法律公告修訂)

Schedule 6

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Cap. 1

Principal Assistant Secretary  
Assistant Director of Administration

(Schedule 6 replaced L.N. 134 of 2007. Amended L.N. 49 of 2008; L.N. 227 of 2015; L.N. 149 of 2022)

## 附表 7

[ 第 85(2) 及 90 條 ]

### 紀律部隊首長級人員

( 格式變更——2012 年第 1 號編輯修訂紀錄 )

就本條例第 85(2) 條而言，以下人士屬紀律部隊首長級人員——

- (a) 職級不低於總警司的警務人員；
- (b) 職級高於首席調查主任的廉政公署行動處的人員；  
( 由 1997 年第 362 號法律公告修訂 )
- (c) 職級不低於高級首席入境事務主任的入境事務隊成員；  
( 由 1997 年第 363 號法律公告修訂 )
- (d) 職級不低於總監督的香港海關成員。

( 由 1995 年第 88 號第 3 條增補 )

## Schedule 7

[ss. 85(2) & 90]

### Directorate Disciplined Officers

(Format changes—E.R. 1 of 2012)

The following are directorate disciplined officers for the purposes of section 85(2) of this Ordinance—

- (a) a police officer at or above the rank of Chief Superintendent;
- (b) an officer of the Operations Department, Independent Commission Against Corruption above the rank of Principal Investigator;
- (c) a member of the Immigration Service at or above the rank of Senior Principal Immigration Officer;
- (d) a member of the Customs and Excise Service at or above the rank of Chief Superintendent.

(Added 88 of 1995 s. 3)



## 附表 8

[ 第 2A(3) 條 ]

### 原有法律中的詞語和詞句在 1997 年 7 月 1 日及之後的 解釋

(格式變更——2017 年第 1 號編輯修訂紀錄)

1. 在任何條文中對女皇陛下、皇室、官方、英國政府或國務大臣 (或相類名稱、詞語或詞句) 的提述, 在條文內容與以下所有權有關或涉及以下事務或關係的情況下, 須解釋為對中華人民共和國中央人民政府或其他主管機關的提述——
  - (a) 香港特別行政區土地的所有權;
  - (b) 中華人民共和國中央人民政府負責處理的事務;
  - (c) 中央與香港特別行政區的關係。
  
2. 在任何條文中對女皇陛下、皇室、官方、英國政府或國務大臣 (或相類名稱、詞語或詞句) 的提述, 在文意並非第 1 條所指明者的情況下, 須解釋為對香港特別行政區政府的提述。

## Schedule 8

[s. 2A(3)]

### Construction on and after 1 July 1997 of Words and Expressions in Laws Previously in Force

(Format changes—E.R. 1 of 2017)

1. Any reference in any provision to Her Majesty, the Crown, the British Government or the Secretary of State (or to similar names, terms or expressions) where the content of the provision—
  - (a) relates to title to land in the Hong Kong Special Administrative Region;
  - (b) involves affairs for which the Central People's Government of the People's Republic of China has responsibility;
  - (c) involves the relationship between the Central Authorities and the Hong Kong Special Administrative Region,shall be construed as a reference to the Central People's Government or other competent authorities of the People's Republic of China.
  
2. Any reference in any provision to Her Majesty, the Crown, the British Government or the Secretary of State (or to similar names, terms or expressions) in contexts other than those specified in section 1 shall be construed as a reference to the Government of the Hong Kong Special Administrative Region.

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第 1 章

附表 8

Schedule 8

S8-4  
Cap. 1

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| <p>3. 對女皇陛下會同樞密院或對樞密院的提述，在條文的內容與關乎香港的上訴司法管轄權有關的情況下，須解釋為對香港終審法院的提述。</p> <p>4. 對女皇陛下會同樞密院或對樞密院的提述，在文意並非涉及其上訴司法管轄權的情況下，須以與根據第 1 及 2 條解釋對女皇陛下的提述的相同方式，予以解釋。</p> <p>5. 對名稱中包含“皇家”一詞的政府機構的提述，須——</p> <p style="margin-left: 40px;">(a) 在猶如“皇家”一詞已被刪去的情況下理解；及</p> <p style="margin-left: 40px;">(b) 理解為提述香港特別行政區的相應政府機構。</p> <p>6. 對殖民地香港（或相類名稱、詞語或詞句）的提述，須解釋為對香港特別行政區的提述，而對殖民地香港的邊界的提述，須解釋為對由中華人民共和國國務院頒布的香港特別行政區行政區域圖所指明的邊界的提述。</p> <p>7. 對香港最高法院的提述，須解釋為對香港特別行政區高等法院的提述。</p> <p>8. 對香港上訴法院的提述，須解釋為對香港特別行政區高等法院上訴法庭的提述。</p> | <p>3. Any reference to Her Majesty in Council or to the Privy Council, where the content of the provision relates to appellate jurisdiction in relation to Hong Kong, shall be construed as a reference to the Hong Kong Court of Final Appeal.</p> <p>4. Any reference to Her Majesty in Council or to the Privy Council in contexts other than its appellate jurisdiction shall be construed in the same manner as references to Her Majesty are construed under sections 1 and 2.</p> <p>5. Any reference to a Government agency which bears a name which includes the word “Royal” shall be read—</p> <p style="margin-left: 40px;">(a) as if the word “Royal” were omitted; and</p> <p style="margin-left: 40px;">(b) as a reference to the corresponding Government agency of the Hong Kong Special Administrative Region.</p> <p>6. Any reference to the Colony of Hong Kong (or to similar names, terms or expressions) shall be construed as a reference to the Hong Kong Special Administrative Region and any reference to the boundaries of the Colony of Hong Kong shall be construed as a reference to the boundaries as specified in the map of the administrative division of the Hong Kong Special Administrative Region published by the State Council of the People’s Republic of China.</p> <p>7. Any reference to the Supreme Court of Hong Kong shall be construed as a reference to the High Court of the Hong Kong Special Administrative Region.</p> <p>8. Any reference to the Court of Appeal of Hong Kong shall be construed as a reference to the Court of Appeal of the High Court of the Hong Kong Special Administrative Region.</p> |
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第 1 章

附表 8

Schedule 8

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Cap. 1

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| <p>9. 對香港高等法院的提述，須解釋為對香港特別行政區高等法院原訟法庭的提述。</p> <p>10. 對地方法院的提述，須解釋為對區域法院的提述。</p> <p>11. 對香港總督的提述，須解釋為對香港特別行政區行政長官的提述；對總督會同行政局的提述，須解釋為對行政長官會同行政會議的提述。</p> <p>12. 對香港最高法院首席大法官的提述，須解釋為對香港特別行政區高等法院首席法官的提述。</p> <p>13. 對上訴法院大法官的提述，須解釋為對高等法院上訴法庭法官的提述。</p> <p>14. 對高等法院大法官的提述，須解釋為對高等法院原訟法庭法官的提述。</p> <p>15. 在任何法律中文文本中對立法局、司法機關或行政機關或該等機關的人員的提述，須按照《基本法》有關規定解釋。</p> <p>16. 在任何法律中對立法局的提述，須視情況要求，解釋為包括對臨時立法會的提述。</p> | <p>9. Any reference to the High Court of Justice of Hong Kong shall be construed as a reference to the Court of First Instance of the High Court of the Hong Kong Special Administrative Region.</p> <p>10. Any reference to “地方法院” shall be construed as a reference to “區域法院”.</p> <p>11. Any reference to the Governor of Hong Kong or to the Governor in Council shall be construed as a reference to the Chief Executive of the Hong Kong Special Administrative Region or the Chief Executive in Council respectively.</p> <p>12. Any reference to the Chief Justice of the Supreme Court of Hong Kong shall be read as a reference to the Chief Judge of the High Court of the Hong Kong Special Administrative Region.</p> <p>13. Any reference to “上訴法院大法官” shall be construed as a reference to “高等法院上訴法庭法官”.</p> <p>14. Any reference to a judge of the High Court shall be construed as a reference to a judge of the Court of First Instance.</p> <p>15. Any reference in the Chinese version of any law to the Legislative Council, the Judiciary or the Executive Authorities or to the officers of those bodies shall be construed in accordance with the relevant provisions of the Basic Law.</p> <p>16. Any reference in any law to the Legislative Council shall, as the case may require, be construed as including a reference to the Provisional Legislative Council.</p> |
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第 1 章

附表 8

Schedule 8

S8-8  
Cap. 1

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| <p>17. 對中華人民共和國或中國(或相類名稱、詞語或詞句)的提述,須解釋為對包括台灣、香港特別行政區及澳門在內的中華人民共和國的提述。</p> <p>18. 對大陸、台灣、香港或澳門的提述(不論是單獨提述或同時提述),須解釋為對作為中華人民共和國一個組成部分的大陸、台灣、香港或澳門(視屬何情況而定)的提述。</p> <p>19. 對外國(或相類詞語或詞句)的提述,須解釋為對中華人民共和國以外的國家或地區的提述,或解釋為對香港特別行政區以外的任何地方的提述,視乎有關法律的內容而定。</p> <p>20. 對外國人或外藉人士(或相類詞語或詞句)的提述,須解釋為對並非中華人民共和國公民的人士的提述。</p> <p>21. 任何保留女皇陛下,其世襲繼承人及繼位人的權利的條文,須解釋為保留中華人民共和國中央人民政府及香港特別行政區政府的根據《基本法》和其他法律的規定所享有的權利。</p> <p>21A. 對立法局的提述,須解釋為對立法會的提述。(由 1998 年第 26 號第 42 條增補)</p> <p>21B. 對行政局的提述,須解釋為對行政會議的提述。(由 1998 年第 26 號第 42 條增補)</p> | <p>17. Any reference to the People's Republic of China or to China (or to similar names, terms or expressions) shall be construed as a reference to the People's Republic of China as including Taiwan, the Hong Kong Special Administrative Region and Macau.</p> <p>18. Any reference to the Mainland, Taiwan, Hong Kong or Macau (whether separately or concurrently) shall be construed as a reference to the Mainland, Taiwan, Hong Kong or Macau, as the case may be, as a part of the People's Republic of China.</p> <p>19. Any reference to a foreign country or foreign state (or to similar terms or expressions) shall be construed as a reference to a country or territory other than the People's Republic of China or as a reference to any place other than the Hong Kong Special Administrative Region, depending on the content of the relevant law.</p> <p>20. Any reference to an alien (or to similar terms or expressions) shall be construed as a reference to a person other than a citizen of the People's Republic of China.</p> <p>21. Any provision saving the rights of Her Majesty, Her Heirs and Successors shall be construed as saving the rights of the Central People's Government of the People's Republic of China and the rights of the Government of the Hong Kong Special Administrative Region under the Basic Law or other laws.</p> <p>21A. Any reference to “立法局” shall be construed as a reference to “立法會”. (Added 26 of 1998 s. 42)</p> <p>21B. Any reference to “行政局” shall be construed as a reference to “行政會議”. (Added 26 of 1998 s. 42)</p> |
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第 1 章

附表 8

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- 21C. 對地方法院法官的提述，或對地院法官的提述，須解釋為對區域法院法官的提述。(由 1998 年第 26 號第 42 條增補)
- 21D. 對大法官的提述，或對大法官或法官的提述，須解釋為對法官的提述。(由 1998 年第 26 號第 42 條增補)
- 21E. 對政府的提述，須解釋為對特區政府的提述。(由 1998 年第 26 號第 42 條增補)
- 21F. 對首席法官的提述，或對首席大法官的提述，須解釋為對終審法院首席法官的提述。(由 1998 年第 26 號第 42 條增補)
22. 除文意另有所指外，本附表適用。  
(由 1997 年第 110 號第 6 條增補)

- 21C. Any reference to “地方法院法官” or “地院法官” shall be construed as a reference to “區域法院法官”. (Added 26 of 1998 s. 42)
- 21D. Any reference to “大法官” or “大法官或法官” shall be construed as a reference to “法官”. (Added 26 of 1998 s. 42)
- 21E. Any reference to “政府” shall be construed as a reference to “特區政府”. (Added 26 of 1998 s. 42)
- 21F. Any reference to “首席法官” or “首席大法官” shall be construed as a reference to “終審法院首席法官”. (Added 26 of 1998 s. 42)
22. This Schedule applies unless the context otherwise requires.  
(Added 110 of 1997 s. 6)

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第 1 章附表 9  
第 1 條Schedule 9  
Section 1S9-2  
Cap. 1

## 附表 9

[ 第 102 條 ]

## 暫時性條文

(由 1998 年第 26 號第 43 條增補。格式變更——2017 年第 1 號編輯修訂紀錄)

## 1. 詞語和詞句的釋義

**受英國保護人士** (British protected person) 指根據《1981 年英國國籍法令》(1981 c. 61 U.K.)<sup>#</sup> 具有受英國保護人士身分的人；

**英國公民** (British citizen) 指根據《1981 年英國國籍法令》(1981 c. 61 U.K.)<sup>#</sup> 具有英國公民身分的人；

**英國成文法則** (British enactment, imperial enactment) 指——

- (a) 任何國會通過的法令；
- (b) 任何樞密院頒令；及
- (c) 根據或憑藉任何該等法令或樞密院頒令而訂立的任何規則、規例、文告、命令、公告、法院規則、附例或其他文書；

**英國海外公民** (British Overseas citizen) 指根據《1981 年英國國籍法令》(1981 c. 61 U.K.)<sup>#</sup> 具有英國海外公民身分的人；

**英國屬土公民** (British Dependent Territories citizen) 指根據《1981 年英國國籍法令》(1981 c. 61 U.K.)<sup>#</sup> 具有或曾具有英國屬土公民身分的人；

**英聯邦** (Commonwealth) 指以下各地的總合——

- (a) 聯合王國；
- (b) 海峽群島；
- (c) 萌島；

## Schedule 9

[s. 102]

## Temporary Provisions

(Schedule 9 added 26 of 1998 s. 43. Format changes—E.R. 1 of 2017)

## 1. Interpretation of words and expressions

**British citizen** (英國公民) means a person who has the status of a British citizen under the British Nationality Act 1981 (1981 c. 61 U.K.)<sup>#</sup>;

**British Dependent Territories citizen** (英國屬土公民) means a person who has or had the status of a British Dependent Territories citizen under the British Nationality Act 1981 (1981 c. 61 U.K.)<sup>#</sup>;

**British enactment** and **imperial enactment** (英國成文法則) mean—

- (a) any Act of Parliament;
- (b) any Order in Council; and
- (c) any rule, regulation, proclamation, order, notice, rule of court, by-law or other instrument made under or by virtue of any such Act or Order in Council;

**British Overseas citizen** (英國海外公民) means a person who has the status of a British Overseas citizen under the British Nationality Act 1981 (1981 c. 61 U.K.)<sup>#</sup>;

**British protected person** (受英國保護人士) means a person who has the status of a British protected person under the British Nationality Act 1981 (1981 c. 61 U.K.)<sup>#</sup>;



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第 1 章附表 9  
第 1 條

- (d) 《1981 年英國國籍法令》(1981 c. 61 U.K.)# 附表 3 所述的國家；
- (e) 《1981 年英國國籍法令》(1981 c. 61 U.K.)# 附表 6 所述的英國屬土；

**英聯邦公民** (Commonwealth citizen) 指根據《1981 年英國國籍法令》(1981 c. 61 U.K.)# 具有英聯邦公民身分的人；

**英聯邦代辦** (Crown Agents) 指當其時擔任英國海外政府及機構代辦的人士或團體、組織或機關；

**英籍人士** (British subject) 指根據《1981 年英國國籍法令》(1981 c. 61 U.K.)# 具有英籍人士身分的人；

**國會** (Parliament) 指英格蘭國會、大不列顛國會及聯合王國國會；

**維多利亞** (Victoria) 指在本條例附表 1 指明的界線內的範圍；

**領海** (territorial waters) 的涵義與香港水域的涵義相同；

**樞密院頒令** (Order in Council) 指英女皇會同樞密院 (即在當其時由英國上議院議員及其他人組成的英女皇樞密院) 頒布的命令；

**聯合王國** (United Kingdom) ——

- (a) 指大不列顛及北愛爾蘭聯合王國；或
- (b) 用於公民地位或國籍方面時，指大不列顛、北愛爾蘭、海峽群島及萌島。

Schedule 9  
Section 1S9-4  
Cap. 1

**British subject** (英籍人士) means a person who has the status of a British subject under the British Nationality Act 1981 (1981 c. 61 U.K.)#;

**Commonwealth** (英聯邦) means collectively—

- (a) the United Kingdom;
- (b) the Channel Islands;
- (c) the Isle of Man;
- (d) the countries mentioned in Schedule 3 to the British Nationality Act 1981 (1981 c. 61 U.K.)#;
- (e) the British Dependent Territories mentioned in Schedule 6 to the British Nationality Act 1981 (1981 c. 61 U.K.)#;

**Commonwealth citizen** (英聯邦公民) means a person who has the status of a Commonwealth citizen under the British Nationality Act 1981 (1981 c. 61 U.K.)#;

**Crown Agents** (英聯邦代辦) means the persons or body for the time being acting as Crown Agents for Oversea Governments and Administrations;

**Order in Council** (樞密院頒令) means an order made by Her Majesty in Her Privy Council (being the Lords and others for the time being of Her Majesty's Most Honourable Privy Council);

**Parliament** (國會) means the Parliament of England, the Parliament of Great Britain and the Parliament of the United Kingdom;

**territorial waters** (領海) has the same meaning as waters of Hong Kong;

**United Kingdom** (聯合王國) means—

- (a) the United Kingdom of Great Britain and Northern Ireland; or

S9-5  
第 1 章附表 9  
第 2 條Schedule 9  
Section 2S9-6  
Cap. 1**2. 修改**

英國成文法則須予以司法認知為英國成文法則，參閱應用時須對其中的名稱、地點、法院、法庭、人員、人物、貨幣、刑罰或其他事項按需要加以修改，使能適用於香港環境。

**3. 英國成文法則的引稱**

引稱英國成文法則時，如該法則有簡稱或引稱，可依此引稱，亦可依該法則通過時的帝曆或公曆年，或依任何英國從屬法例、規則及命令的編號引稱。

**4. 提述英國成文法則時的釋疑**

凡法律提述任何英國成文法則或其中任何條文、部或部分，須解作提述該法則、條文、部或部分在 1994 年 1 月 1 日或該日之前不時修訂的版本，以及該法則、條文、部或部分在 1994 年 1 月 1 日或該日之前的取代本。

**5. 提述英國成文法則下附屬法例的情況**

法律中所提述的英國成文法則，包括任何根據或憑藉該成文法則訂立而具有立法效力的樞密院頒令、規則、規例、文告、命令、公告、法院規則、附例或其他文書。

(b) when used with reference to citizenship or nationality, Great Britain, Northern Ireland, the Channel Islands and the Isle of Man;

*Victoria* (維多利亞) means the area within the boundaries specified in Schedule 1 to this Ordinance.

**2. Modifications**

A British enactment shall be judicially noticed as such and shall be read with such modifications as to names, localities, courts, officers, persons, moneys, penalties or otherwise as may be necessary to make the same applicable to the circumstances of Hong Kong.

**3. Citation of British enactments**

A British enactment may be cited by a short title or citation, if any, or by reference to the regnal or calendar year in which it was passed or by the number assigned to any statutory instrument or statutory rule and order.

**4. Construction of reference to British enactment**

A reference in any law to a British enactment or to any provision, part or division thereof shall be construed as a reference to the same as the same may be from time to time amended on or before 1 January 1994 and as a reference to any British enactment or to any provision, part or division of a British enactment, substituted for it on or before 1 January 1994.

**5. References to subsidiary legislation under British enactment**

A reference in any law to any British enactment shall include a reference to any Order in Council, rule, regulation, proclamation, order, notice, rule of court, by-law or other instrument made under or by virtue thereof and having legislative effect.

S9-7  
第 1 章附表 9  
第 6 條Schedule 9  
Section 6S9-8  
Cap. 1**6. 英國成文法則文本**

英國成文法則的文本，如——

- (a) 在憲報刊登或宣稱由政府印務局印刷；或
- (b) 載於任何宣稱是獲有關主管當局授權出版或印刷的合訂印本，

則在相反證明成立之前，須當作為該法則在出版或印刷當日的真確文本。

**7. 對官方若干提述的釋疑**

(1) 如某條例明文訂定該條例——

- (a) 影響或不影響官方的權利；或
- (b) 對官方具約束力或不具約束力，

則有關的對官方的提述，須解釋為對“國家”的提述。

(2) 第(1)款並不損害本條例第 2A(2)(c) 條的實施(不論實施是在本條生效日期之前、當日或之後)。

編輯附註：

# 請參閱 1993 年第 308 號法律公告。

**6. Copies of British enactments**

A copy of a British enactment shall, if it—

- (a) is published in the Gazette or purports to be printed by the Government Printer; or
- (b) is contained in any printed collection purporting to be published or printed by authority,

be deemed, until the contrary is proved, to be an authentic copy of the British enactment as at the date of such publication or printing.

**7. Construction of certain references to Crown**

(1) Where it is expressly provided in an Ordinance that the Ordinance—

- (a) affects or does not affect the right of; or
- (b) is or is not binding on,

the Crown, then that reference to the Crown shall be construed as a reference to the State.

(2) Subsection (1) does not prejudice the operation of section 2A(2)(c) of this Ordinance, whether before, on or after the commencement of this section.

Editorial Note:

# Please see L.N. 308 of 1993.