

Chapter:	1	<b>INTERPRETATION AND GENERAL CLAUSES ORDINANCE</b>	Gazette Number	Version Date
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		<b>Long title</b>		30/06/1997
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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.

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

(Originally 31 of 1966)

Part:	I	<b>SHORT TITLE AND APPLICATION</b>		30/06/1997
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Section:	1	<b>Short title</b>		30/06/1997
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This Ordinance may be cited as the Interpretation and General Clauses Ordinance.

Section:	2	<b>Application</b>	26 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 26 of 1998 s. 2

(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)

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

**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. That s. 1(3) reads as follows-

"(3) Save where the contrary intention appears either from the amended Ordinance or from the context of any other Ordinance or instrument, the provisions of the amended Ordinance shall apply to the amended Ordinance and to any other Ordinance in force, whether such other Ordinance came or comes into operation before, on or after 1 July 1997, and to any instrument made or issued under or by virtue of any such Ordinance."

(Please note that "amended Ordinance" referred to in the above s. 1(3) means Cap 1 as amended by 26 of 1998.)

Section:	2A	<b>Laws previously in force</b>	110 of 1997; 26 of 1998; 2 of 2012	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 26 of 1998 s. 3; 2 of 2012 s. 4

(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 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)

Part:	II	<b>INTERPRETATION OF WORDS AND EXPRESSIONS</b>		30/06/1997
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Section:	3	<b>Interpretation of words and expressions</b>	2 of 2009	08/05/2009
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"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)

"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 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)
- "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)

"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)

"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
- (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)

"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)

"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 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 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;

"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;
- (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)

"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;
- (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-

- (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)

**Note:**

\* See also s. 6 of 32 of 1990.

Section:	3A	<b>References to former or retired judge</b>	32 of 2000	01/07/1997
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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.

(Added 32 of 2000 s. 15)

Section:	4	<b>(Repealed 26 of 1998 s. 5)</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 5

Section:	5	<b>Grammatical variations and cognate expressions</b>		30/06/1997
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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.

Section:	6	<b>References to Government property</b>	26 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 26 of 1998 s. 6

(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)

Section:	7	<b>Provisions for gender and number</b>		30/06/1997
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(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.

Section:	8	<b>Service by post</b>		30/06/1997
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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 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)

Section:	9	<b>Chinese and English words and expressions</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 7

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)

Section:	10	<b>(Repealed 26 of 1998 s. 8)</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 8

Part:	IIA	<b>GENERAL PROVISIONS AS TO LAWS IN BOTH OFFICIAL LANGUAGES</b>		30/06/1997
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(Part IIA added 18 of 1987 s. 4)

Section:	10A	<b>Application of Part IIA</b>		30/06/1997
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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).

Section:	10B	<b>Construction of Ordinances in both official languages</b>		30/06/1997
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(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)

Section:	10C	<b>Expressions of common law</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 9

(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 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)

Section:	10D	<b>Name of statutory body corporate</b>		30/06/1997
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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)

Section:	10E	<b>Words etc. in the official languages may be declared as equivalents</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 37

(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)

Part:	III	<b>GENERAL PROVISIONS AS TO ORDINANCES</b>		30/06/1997
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Section:	11	<b>Ordinance to be public Ordinance</b>		30/06/1997
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Every Ordinance shall be a public Ordinance and shall be judicially noticed as such.

Section:	12	<b>(Repealed 89 of 1993 s. 5)</b>		30/06/1997
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Section:	13	<b>Citation of Ordinance</b>		30/06/1997
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(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 any Ordinance providing for the issue of a revised or other edition of the laws of Hong Kong. (Amended L.N. 54 of 1989)

(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 copies of Ordinances printed by the Government Printer.

(Amended L.N. 57 of 1974)

Section:	14	<b>(Repealed 89 of 1993 s. 6)</b>		30/06/1997
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Section:	15	<b>Reference to Ordinance as amended</b>		30/06/1997
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(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.

Section:	16	<b>Citation of part of Ordinance</b>		30/06/1997
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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.

Section:	17	<b>Construction of reference to Ordinance, section, etc.</b>		30/06/1997
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(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 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)

Section:	18	<b>Marginal notes and section headings</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 10

(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)

Section:	19	<b>General principles of interpretation</b>		30/06/1997
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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.

Part:	IV	<b>COMMENCEMENT, DISALLOWANCE, AMENDMENT AND REPEAL</b>		30/06/1997
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Section:	20	<b>Commencement, etc., of Ordinance</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 11

- (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)
- (Replaced 89 of 1993 s. 8)

Section:	21	<b>Invalidation</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 12

(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)

Section:	22	<b>(Repealed 89 of 1993 s. 9)</b>		30/06/1997
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(Repealed 89 of 1993 s. 9)

Section:	23	<b>Effect of repeal generally</b>		30/06/1997
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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;
- (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.

Section:	24	<b>Repealed Ordinance not revived</b>		30/06/1997
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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.

Section:	25	<b>Repeal and substitution</b>		30/06/1997
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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.

Section:	26	<b>(Repealed 89 of 1993 s. 10)</b>		30/06/1997
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Section:	27	<b>Effect of expiry, etc. of Ordinance</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 13

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, 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)

Part:	V	<b>SUBSIDIARY LEGISLATION</b>		30/06/1997
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Section:	28	<b>General provision with regard to power to make subsidiary legislation</b>		30/06/1997
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(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-

- (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;
- (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;
- (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 reference to the general purpose;
- (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 \$5000 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)
- (f) subsidiary legislation may amend any forms contained in the Ordinance under which such subsidiary legislation is made and may prescribe new forms.
- (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 notices may fix different days for different provisions. (Added 89 of 1993 s. 11)

(Amended 89 of 1993 s. 11)

Section:	28A	<b>Construction of power to make subsidiary legislation</b>	L.N. 138 of 2007	01/07/2007
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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)

Section:	29	<b>Fees and charges</b>		30/06/1997
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(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
- (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.

Section:	29A	<b>Variation of certain fees and charges</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 37

(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-
  - (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)

Section:	30	<b>(Repealed 89 of 1993 s. 13)</b>		30/06/1997
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Section:	31	<b>Construction of subsidiary legislation</b>		30/06/1997
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(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)

Section:	32	<b>Exercise of statutory powers between enactment and commencement of Ordinance</b>		30/06/1997
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(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 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)

Section:	33	<b>(Repealed 89 of 1993 s. 16)</b>		30/06/1997
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Section:	34	<b>Placing of subsidiary legislation before Legislative Council</b>	8 of 2002	03/05/2002
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(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)
  - (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)

Section:	35	<b>Approval of Legislative Council to subsidiary legislation</b>	30/06/1997
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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.

Section:	36	<b>Effect of repeal on subsidiary legislation</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 14

(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.

Section:	37	<b>Forms</b>	30/06/1997
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(1) Where any form is prescribed by or under any Ordinance, 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)

Section:	37A	<b>Amendment of subsidiary legislation by Ordinance</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 15

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)

Part:	VI	<b>POWERS</b>		30/06/1997
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Section:	38	<b>Presumption of lawful exercise of power</b>		30/06/1997
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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)

Section:	39	<b>Exercise of powers</b>		30/06/1997
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(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.

Section:	40	<b>Construction of enabling words</b>	26 of 1998; 29 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 16; 29 of 1998 s. 105

(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)

Section:	41	<b>Power to issue licences, etc. discretionary</b>	26 of 1998; 29 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 17; 29 of 1998 s. 105

(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 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)

Section:	42	<b>Power to appoint includes power to suspend, dismiss, re-appoint, etc.</b>		30/06/1997
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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.

Section:	43	<b>Delegation by specified public officers</b>	26 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 26 of 1998 s. 37

(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)

Section:	44	<b>Effect of delegation of powers and duties</b>		30/06/1997
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(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;
- (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.

Section:	45	<b>Exercise of powers in special cases</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 37

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)

Section:	46	<b>Power to make public instruments and perform acts</b>		30/06/1997
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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)

Section:	47	<b>Power to relate back appointment</b>		30/06/1997
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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.

Part:	VII	<b>BOARDS AND COMMITTEES</b>	26 of 1998	01/07/1997
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Section:	47A	<b>Power of Chief Executive to appoint advisory bodies</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 37

(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)

Section:	48	<b>Power to appoint chairman</b>		30/06/1997
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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.

Section:	49	<b>Power to appoint public officer to board, etc.</b>		30/06/1997
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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 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.

Section:	50	<b>Appointment of alternates</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 18

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.

Section:	51	<b>Powers of board, etc. not affected by vacancy</b>		30/06/1997
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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;
- (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.

Section:	52	<b>Power of majority and exercise of powers</b>		30/06/1997
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(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.

Section:	53	<b>Seal</b>		30/06/1997
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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.

Part:	VIII	<b>PUBLIC OFFICERS AND PUBLIC CONTRACTS</b>		30/06/1997
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Section:	54	<b>References to public officer</b>		30/06/1997
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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)

Section:	54A	<b>Power to transfer functions of public officers</b>	L.N. 362 of 1997	01/07/1997
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(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 ss. 2 & 3)

(4) In this section-

"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.]

Section:	55	<b>Change of title of office</b>	L.N. 362 of 1997	01/07/1997
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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 ss. 2 & 3)  
[cf. 1946 c. 31 s. 2 U.K.]

Section:	56	<b>Appointment of officers by name or office</b>		30/06/1997
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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.

Section:	57	<b>Filling vacancy</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 37

(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)

Section:	58	<b>Power to appoint while holder on retirement leave</b>		30/06/1997
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(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 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)

Section:	59	<b>Contracts by public officer</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 37

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)

Section:	60	<b>(Repealed 26 of 1998 s. 19)</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 19

Section:	61	<b>Omission of title after signature of public officer immaterial</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 ss. 20 & 37

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)

Part:	IX	<b>GOVERNMENT, CHIEF EXECUTIVE AND CHIEF EXECUTIVE IN COUNCIL*</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 21

**Note:**

**\* (Replaced 26 of 1998 s. 21)**

Section:	62	<b>Signification of orders of Chief Executive and Chief Executive in Council</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 ss. 21 & 37

(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)

Section:	63	<b>Delegation by Chief Executive</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 ss. 22 & 37

(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)

Section:	64	<b>Appeals and objections to Chief Executive in Council</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 ss. 23 & 37

(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 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)

Section:	65	<b>(Repealed 26 of 1998 s. 24)</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 24

Section:	66	<b>Saving of rights of State</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 24

(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 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)

Part:	X	<b>TIME AND DISTANCE</b>		30/06/1997
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Section:	67	<b>Hong Kong Time</b>	26 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 26 of 1998 s. 25

(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.

(Replaced 17 of 1977 s. 3. Amended 26 of 1998 s. 25)

Section:	68	<b>(Repealed 17 of 1977 s. 3)</b>		30/06/1997
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(Repealed 17 of 1977 s. 3)

Section:	69	<b>References to "a.m." and "p.m."</b>		30/06/1997
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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 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.

Section:	70	<b>Provision where no time prescribed</b>		30/06/1997
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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.

Section:	71	<b>Computation of time</b>	L.N. 362 of 1997	01/07/1997
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(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 or a gale warning day or black rainstorm warning day shall be reckoned in the computation of that time. (Amended 43 of 1983 s. 2; 68 of 1995 s. 16)

(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 ss. 2 & 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)

Section:	72	<b>Power to extend time</b>		30/06/1997
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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.

Section:	73	<b>Distance</b>		30/06/1997
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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.

Section:	74	<b>Warrants, etc. valid on public holiday</b>		30/06/1997
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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.

Part:	XI	<b>NATIONAL LAWS APPLYING IN HONG KONG*</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 26

**Note:**

\* (Replaced 26 of 1998 s. 26)

Section:	75	<b>Modifications</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 ss. 26 & 27

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)

Section:	76	<b>Citation of national laws applying in Hong Kong</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 28

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)

Section:	77	<b>(Repealed 26 of 1998 s. 29)</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 29

Section:	78	<b>Reference to subsidiary legislation under national laws applying in Hong Kong</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 30

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)

Section:	79	<b>(Repealed 89 of 1993 s. 23)</b>		30/06/1997
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(Repealed 89 of 1993 s. 23)

Section:	80	<b>Copies of national laws applying in Hong Kong</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 31

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)

Section:	80A	<b>Application of section 23 to national laws applying in Hong Kong</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 32

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)

Part:	XII	<b>SEARCH AND SEIZURE OF JOURNALISTIC MATERIAL</b>		30/06/1997
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(Added 88 of 1995 s. 2)

Section:	81	<b>Interpretation</b>		30/06/1997
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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)

Section:	82	<b>Meaning of "journalistic material"</b>		30/06/1997
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(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)

Section:	83	<b>Power to enter and search or seize</b>		30/06/1997
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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 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)

Section:	84	<b>Application for production order in respect of journalistic material</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 33

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

(Added 88 of 1995 s. 2)

Section:	85	<b>Application for warrant to seize journalistic material</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 34

(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.

(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 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)

Section:	86	<b>Further provision for warrants under section 85</b>		30/06/1997
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(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;
- (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)

Section:	87	<b>Procedure in relation to sealed material</b>		30/06/1997
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(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.

(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)

Section:	88	<b>Provisions supplementary to section 84</b>	L.N. 163 of 2013	03/03/2014
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(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;
  - (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)

Section:	89	<b>Miscellaneous</b>		30/06/1997
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- (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.
- (4) Rules of court may provide for the practice and procedure applying to proceedings under this Part.

(Added 88 of 1995 s. 2)

Section:	90	<b>Amendment of Schedule 7</b>	26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 37

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)

Section:	91	<b>(Repealed 89 of 1993 s. 27)</b>		30/06/1997
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Section:	91A	<b>(Repealed 89 of 1993 s. 27)</b>		30/06/1997
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Section:	92	<b>(Repealed 89 of 1993 s. 26)</b>		30/06/1997
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Section:	93	<b>(Repealed 89 of 1993 s. 27)</b>		30/06/1997
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Section:	94	<b>(Repealed 89 of 1993 s. 27)</b>		30/06/1997
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Section:	95	<b>(Repealed 89 of 1993 s. 27)</b>		30/06/1997
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Section:	96	<b>(Repealed 89 of 1993 s. 27)</b>		30/06/1997
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Section:	97	<b>(Repealed 89 of 1993 s. 27)</b>		30/06/1997
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Part:	XIII	<b>Miscellaneous</b>	E.R. 1 of 2012	09/02/2012
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(\*Format changes—E.R. 1 of 2012)

**Note:**

\* The format of Part XIII has been updated to the current legislative styles.

Section:	98	<b>Copies of Ordinances, etc. in Gazette</b>	E.R. 1 of 2012	09/02/2012
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(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)

Section:	98A	<b>(Repealed 13 of 2011 s. 30)</b>	L.N. 164 of 2011	16/01/2012
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Section:	98B	<b>(Repealed 13 of 2011 s. 31)</b>	13 of 2011	30/06/2011
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Section:	98C	<b>(Repealed 13 of 2011 s. 32)</b>	13 of 2011	30/06/2011
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Section:	99	<b>(Repealed 13 of 2011 s. 33)</b>	13 of 2011	30/06/2011
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Section:	100	<b>(Repealed 89 of 1993 s. 27)</b>		30/06/1997
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Section:	100A	<b>Power to increase fines</b>	E.R. 1 of 2012	09/02/2012
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(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

(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)

**Note:**

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

Section:	101	<b>Amendment of Schedules</b>	E.R. 1 of 2012	09/02/2012
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Remarks:

Amendments retroactively made - see 26 of 1998 ss. 35 & 37

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)

Section:	102	<b>Amendment of Schedules 1 and 9</b>	E.R. 1 of 2012	09/02/2012
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 36

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)

Schedule:	1	<b>Boundaries of the City of Victoria</b>	E.R. 1 of 2012	09/02/2012
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[section 102 & Schedule 9]  
(Amended 26 of 1998 s. 38)

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;

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.

(Format changes—E.R. 1 of 2012)

Schedule:	2	<b>The Land and Sea Comprising the Hong Kong Special Administrative Region</b>	E.R. 1 of 2012	09/02/2012
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[section 3]

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)  
(Format changes—E.R. 1 of 2012)

**Note:**

\* **Reproduced in Instrument A207 in this database.**

Schedule:	3	<b>Boundaries of the Harbour</b>	E.R. 1 of 2012	09/02/2012
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[section 3]

On the east-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)

(Format changes—E.R. 1 of 2012)

Schedule:	4	<b>Area of Kowloon</b>	E.R. 1 of 2012	09/02/2012
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[section 3]

**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)

(Format changes—E.R. 1 of 2012)

Schedule:	5	<b>Area of New Kowloon</b>	E.R. 1 of 2012	09/02/2012
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[section 3]

**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)

(Format changes—E.R. 1 of 2012)

Schedule:	5A	<b>Area of New Territories</b>	E.R. 1 of 2012	09/02/2012
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[section 3]

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)

(Format changes—E.R. 1 of 2012)

Schedule:	6	<b>Public Officers</b>	E.R. 1 of 2012	09/02/2012
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[section 62]

Chief Secretary for Administration  
Financial Secretary  
Secretary for Justice  
Secretary for the Civil Service  
Secretary for Commerce and Economic Development  
Secretary for Constitutional and Mainland Affairs

Secretary for Development  
 Secretary for Education  
 Secretary for the Environment  
 Secretary for Financial Services and the Treasury  
 Secretary for Food and Health  
 Secretary for Home Affairs  
 Secretary for Labour and Welfare  
 Secretary for Security  
 Secretary for Transport and Housing  
 Under Secretary  
 Permanent Secretary  
 Director of Administration  
 Director of Home Affairs  
 Deputy Secretary  
 Deputy Director of Administration  
 Principal Assistant Secretary  
 Assistant Director of Administration

(Schedule 6 replaced L.N. 134 of 2007. Amended L.N. 49 of 2008)  
 (Format changes—E.R. 1 of 2012)

Schedule:	7	<b>Directorate Disciplined Officers</b>	E.R. 1 of 2012	09/02/2012
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[sections 85(2) & 90]

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)  
 (Format changes—E.R. 1 of 2012)

Schedule:	8	<b>CONSTRUCTION ON AND AFTER 1 JULY 1997 OF WORDS AND EXPRESSIONS IN LAWS PREVIOUSLY IN FORCE</b>	110 of 1997; 26 of 1998	01/07/1997
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Remarks:

Amendments retroactively made - see 26 of 1998 s. 42

[section 2A(3)]

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.

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.
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.
5. Any reference to a Government agency which bears a name which includes the word "Royal" shall be read-
  - (a) as if the word "Royal" were omitted; and
  - (b) as a reference to the corresponding Government agency of the Hong Kong Special Administrative Region.
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.
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.
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.
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.
10. Any reference to "地方法院" shall be construed as a reference to "區域法院".
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.
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.
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".
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.
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.
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.
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.
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.
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.
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.
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.
- 21A. Any reference to "立法局" shall be construed as a reference to "立法會". (Added 26 of 1998 s. 42)
- 21B. Any reference to "行政局" shall be construed as a reference to "行政會議". (Added 26 of 1998 s. 42)
- 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)

Schedule:	9	<b>TEMPORARY PROVISIONS</b>	26 of 1998	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 26 of 1998 s. 43

[section 102]

## 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.);#;

"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.);#;

"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.);#;

"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.);#;

"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
- (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.

## 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.

(Schedule 9 Added 26 of 1998 s. 43)

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### **Note:**

**#—Please also see L.N. 308 of 1993.**