

# **Students' Guide to Legal Materials of Hong Kong**

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by

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# CONTENTS

## SOURCES OF HONG KONG LAW ..... 1

### 1. Primary Sources..... 2

#### 1.1 International Law ..... 2

#### 1.2 Basic Law ..... 2

#### 1.3 Legislation..... 3

*Gazette Legal Supplement No. 1* ..... 7

*Laws of Hong Kong* ..... 8

*Annotated Ordinances of Hong Kong* ..... 14

#### 1.4 Case Law ..... 14

*The Authorised Hong Kong Law Reports and Digest* ..... 21

*Hong Kong Cases* ..... 21

*Hong Kong Chinese Law Reports & Translations* ..... 22

*Hong Kong Court of Final Appeal Reports* ..... 22

*Hong Kong District Court Law Reports* ..... 22

*Hong Kong Law Reports* ..... 22

Unreported Judgments..... 22

### 2. Secondary Sources..... 26

#### 2.1 Law books ..... 27

#### 2.2 Encyclopaedias ..... 28

#### 2.3 Digests..... 28

#### 2.4 Periodicals..... 29

#### 2.5 Theses / Dissertations..... 29

#### 2.6 Dictionaries..... 30

#### 2.7 Directories..... 31

#### 2.8 Indexes ..... 31

#### 2.9 Government Publications ..... 31

#### 2.10 Electronic Resources ..... 34



# SOURCES OF HONG KONG LAW

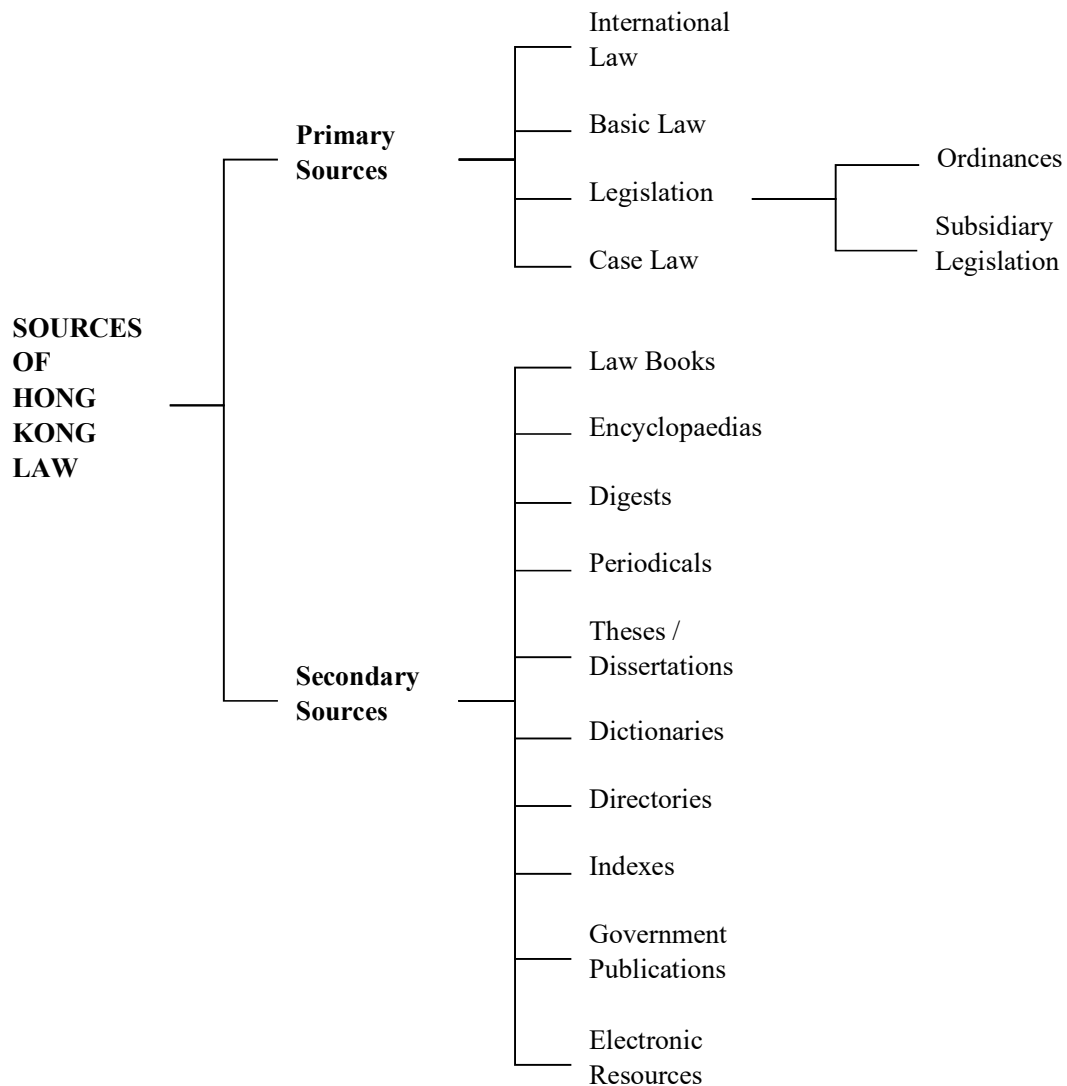
## What are the sources of Hong Kong law?

The sources of Hong Kong law can be categorized into primary sources and secondary sources.

The primary sources include international law, Basic Law, legislation and case law.

The secondary sources include law books, encyclopaedias, digests, periodicals, theses / dissertations, dictionaries, directories, indexes, government publications and electronic resources.

The sources of Hong Kong law can be illustrated in a chart below:



# 1. Primary Sources

## What are primary sources?

- The primary sources are the “**law**” itself.
- The primary sources in Hong Kong are sub-divided into:
  - International law
  - Basic Law
  - Legislation
  - Case law
  - Others, such as equity and customary law

## 1.1 International Law

### What is international law?

- International law is a system of rules and practices that govern the relations between nations.
- It includes public international law (law of nations) and private international law (conflict of laws).
- In practice most nations accept much of international law as legally binding and as law.

### What international law has affected Hong Kong law?

Some international agreements or treaties have affected Hong Kong law. For instance:

- The Joint Declaration between Great Britain and the People’s Republic of China is an international law that spelled out the conditions for the return of Hong Kong to China on 1 July 1997.
- Under Article 39 of Basic Law, it is stipulated that the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights also apply to HKSAR.

## 1.2 Basic Law

### What is the Basic Law?

The Basic Law is:

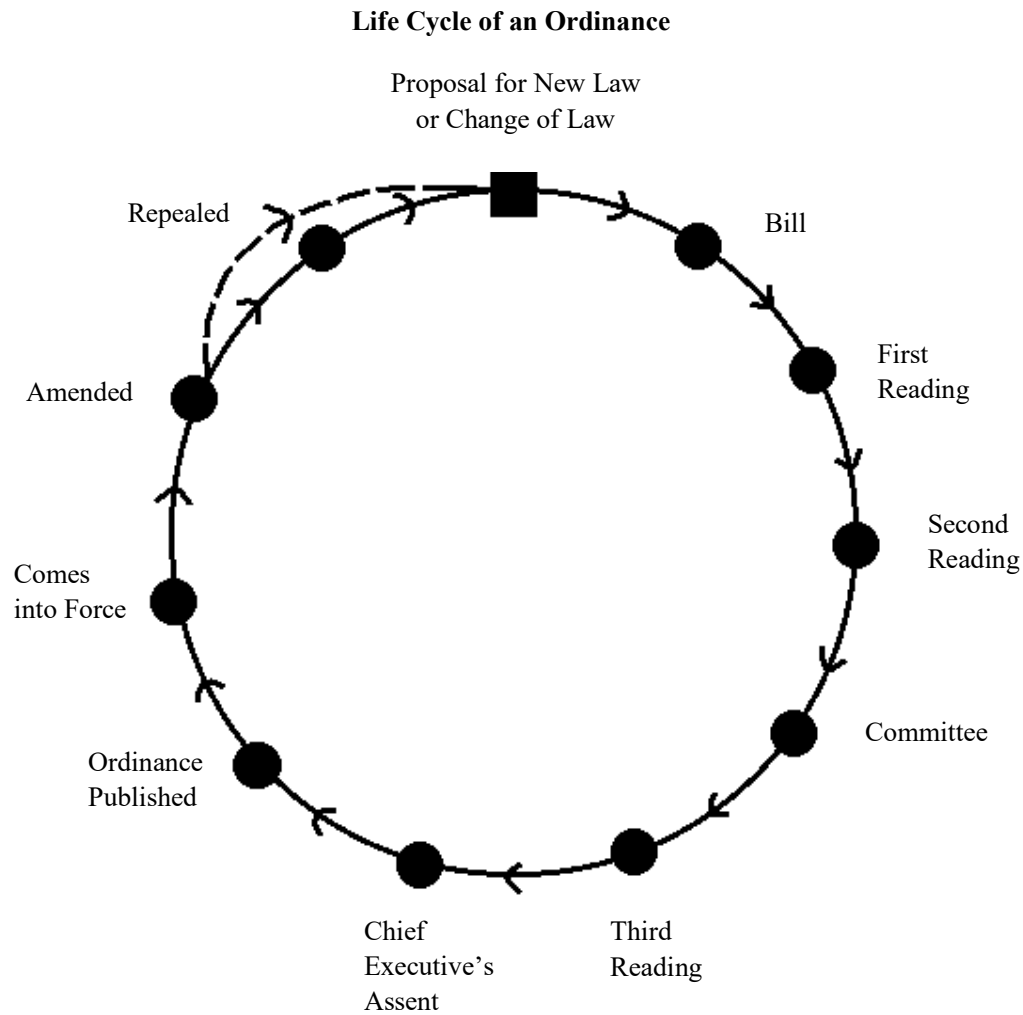
- the written constitution of Hong Kong;
- the fundamental document upon which the Hong Kong legal system now rests;
- the law which must not be contravened by any laws passed by Hong Kong Legislative Council (LegCo); and
- the text of Basic Law can be found in Vol. 1 of the *Laws of Hong Kong* and on Internet: <https://www.elegislation.gov.hk/> and <http://www.basiclaw.gov.hk>

## 1.3 Legislation

### What is Hong Kong legislation?

- Legislation is statutory law, which is superior to case law.
- Hong Kong legislation is divided into:
  - primary legislation—Ordinances passed by LegCo.
  - subsidiary legislation—rules, regulations, orders or resolutions which are made by other people or bodies empowered by law (e.g. an ordinance).
- The word “legislation” is Latin and means “proposing law”.

Legislation in Hong Kong is made like this:



## An Overview of the Statutory Law Making and Changing Process in Hong Kong

<b>PROPOSALS FOR NEW LAW</b>	<p><b>Who proposes new law?</b></p> <p>Laws are proposed by</p> <ul style="list-style-type: none"> <li>• members of the Executive Council (Ex Co) &amp; the Chief Executive, or</li> <li>• members of the LegCo, or</li> <li>• other bodies, such as the Law Reform Commission.</li> </ul>
<b>BILL</b>	<p><b>What is a Bill?</b></p> <ul style="list-style-type: none"> <li>• A <b>Bill</b> is a draft version of a proposed Ordinance.</li> <li>• A piece of Legislation starts off life by the following steps: <ul style="list-style-type: none"> <li>◦ a <b>Green Paper</b>,</li> <li>◦ it then usually becomes a <b>White Paper</b>,</li> <li>◦ and eventually it will become a <b>Draft Bill</b> to be proposed and debated in LegCo.</li> </ul> </li> <li>• A Draft Bill is sometimes sent to interested parties for their comments. Government may also issue a Consultation Document to the public for their comments.</li> <li>• A <b>Bill</b> is published in the <i>Gazette Legal Supplement No. 3</i>. This is BLUE in colour.</li> </ul>
<b>FIRST READING</b>	<p><b>Where is a Bill first read?</b></p> <ul style="list-style-type: none"> <li>• A Bill is first read in LegCo. <ul style="list-style-type: none"> <li>◦ The short title of the Bill is read out by the clerk, and</li> <li>◦ a date is set for Second Reading.</li> </ul> </li> <li>• The reading of the Bill is recorded in <i>Hansard</i> (Proceedings of the LegCo).</li> </ul>
<b>SECOND READING</b>	<p><b>What does the LegCo do in the Second Reading of a Bill?</b></p> <ul style="list-style-type: none"> <li>• LegCo discusses the Bill.</li> <li>• The Second Reading of the Bill is recorded in <i>Hansard</i>.</li> </ul>
<b>COMMITTEE</b>	<p><b>What is the Committee Stage for?</b></p> <ul style="list-style-type: none"> <li>• Between the Second and the Third Reading, the Bill is generally discussed in Committee (either a select Committee or a Committee of the whole LegCo).</li> <li>• The discussion is recorded in <i>Hansard</i> if discussed by the whole of LegCo.</li> </ul>
<b>THIRD READING</b>	<p><b>What does LegCo do during the Bill's Third Reading?</b></p> <ul style="list-style-type: none"> <li>• LegCo votes on whether to make the Bill law.</li> <li>• The Bill then becomes an ORDINANCE, pending the Chief Executive's Assent, if it receives a majority of votes in LegCo.</li> </ul>
<b>CHIEF EXECUTIVE'S ASSENT</b>	<p><b>Does the Legislation passed by LegCo become law automatically?</b></p> <p>No! The Legislation must receive the Chief Executive's Assent to become law.</p>



<b>ORDINANCE PUBLISHED</b>	<p><b>Where is an Ordinance first published?</b></p> <p>An Ordinance is first published in the <i>Government Gazette Legal Supplement No. 1</i> (L. S. No. 1).</p> <p><b>Where will it also be published?</b></p> <p>It will also be published in the Loose-leaf Edition of the <i>Laws of Hong Kong</i>.</p>
<b>COMES INTO FORCE</b>	<p><b>Does the law come into effect (<i>into force</i>) as soon as it is published?</b></p> <p>No! Not always so.</p> <ul style="list-style-type: none"> <li>• Some Ordinances do not come into force when published in <i>Gazette</i>.</li> <li>• Some Ordinances come into force when published in <i>Gazette</i>.</li> <li>• However in some Ordinances, some sections of the law may come into force much later than the others.</li> </ul> <p><b>What is the Commencement Date?</b></p> <p>The Commencement Date states the time when an Ordinance (or sections of an Ordinance) come into force.</p> <p><b>Where can you find the Commencement Date(s) of an Ordinance?</b></p> <ul style="list-style-type: none"> <li>• You can find the Commencement Date in the <i>Legal Supplement No. 1 to the Gazette</i>.</li> <li>• If the Ordinance does not come into force on the date of its publication in the <i>Gazette</i>, you can find its Commencement Date(s) in the <b><i>Legal Supplement No. 2 to the Gazette (L. S. No. 2)</i></b>. <b>L. S. No. 2</b> contains LEGAL NOTICES, which lists the Commencement Notices.</li> </ul>
<b>AMENDED</b>	<p><b>How can an Ordinance or part of an Ordinance be amended?</b></p> <p>An Ordinance or part of an Ordinance can be amended by:</p> <ul style="list-style-type: none"> <li>• Another Ordinance (in L. S. No. 1), and/or</li> <li>• Regulations (in L. S. No. 2).</li> </ul>
<b>REPEALED</b>	<p><b>How does an Ordinance or part of an Ordinance be repealed?</b></p> <p>An Ordinance or part of an Ordinance can be repealed by another Ordinance, also known as a repealing ordinance.</p>

## Publication of Hong Kong Legislation

The official and authorised text of Hong Kong ordinances, subsidiary legislation and bills are published first in the ***Government Gazette, Legal Supplement number 1, 2 and 3*** respectively. They are published weekly. Every month a cumulative index for the year is published and each annual volume is indexed. Since 1992 they are published in English and Chinese. You may also access its online version which is available on <http://www.gld.gov.hk/egazette/>.

An Ordinance is a piece of legislation (statutory law). It is law made by LegCo. An **Ordinance** is given a number according to the sequence of publication date in that year by which it may be cited: for example, the Race Discrimination Ordinance was No. 29 of 2008. It can be found in ***Gazette* 2008, *Legal Supplement No. 1*** (L. S. No. 1), Ordinance no. 29. The same Ordinance will also be issued in the Loose-leaf Edition of the *Laws of Hong Kong* several months later.

Each **Subsidiary Legislation** is also given a number according to the sequence of publication date in that year by which it may be cited as: for example, the Merchant Shipping (Prevention of Air Pollution) Regulation 2007 was L.N. 149/2007. It can be found in ***Gazette* 2007, *Legal Supplement No. 2***, Legal Notice no. 149.

**Bills** are published in ***Legal Supplement No. 3*** before the first reading in the LegCo. They are printed in blue.

## *Gazette Legal Supplement No. 1*

### **What does an Ordinance look like in the *Gazette Legal Supplement No. 1*?**

An Ordinance looks like this, using the Copyright Ordinance as an example:

(A) A3230	Ord. No. 92 of 1997	COPYRIGHT
<b>HONG KONG</b>		
(B) ORDINANCE NO. 92 OF 1997		
(D) <div style="border: 1px solid black; border-radius: 50%; width: 40px; height: 40px; display: flex; align-items: center; justify-content: center; margin: 0 auto;">L.S.</div>	(C) I assent.	
	(E) Christopher PATTEN, <i>Governor.</i> 26 June 1997	
(F) Ordinance to restate the law of copyright, with amendments; to make provision as to the rights of performers and others in performances; to make provision with respect to devices designed to circumvent copy-protection of works, with respect to rights management information and with respect to the fraudulent reception of transmissions; and for connected purposes.		
(G) [27 June 1997]		
Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.		
PART I		
PRELIMINARY		
1. Short title, commencement and interpretation		
(H) (1) This Ordinance may be cited as the Copyright Ordinance.		
(I) (2) The following provisions shall come into operation on a day to be appointed by the Secretary for Trade and Industry by notice in the Gazette—		
(a) the definitions of “register”, “Registrar” and “registration” in section 141(4);		
(b) sections 142 to 149;		
(c) paragraph 5 of Schedule 4.		
(3) The tables showing the provisions defining expressions used in Part II and Part III are set out in sections 199 and 239 respectively.		

- Note:
- (A) This is the page number of the Gazette Legal Supplement No. 1 for 1997.
  - (B) This is the citation number of the Ordinance, number 92 of 1997.
  - (C) This is the Governor’s assent [or the Chief Executive’s assent after 1997].
  - (D) L.S. stands for *locus sigilli*, which is Latin for the “Place of the Seal”. The Public Seal of the Colony (or that of the HKSAR after 1997) had to be placed here.
  - (E) This is the Governor’s signature [or the Chief Executive’s signature after 1997].
  - (F) This is the long title of the Copyright Ordinance.
  - (G) The brackets contains the Commencement Date. If the Ordinance is not yet in force, this space is left blank.
  - (H) This tells us that this Ordinance can be conveniently referred to as the Copyright Ordinance.
  - (I) The interpretation section, sets out the meaning in which certain words or phrases are used for the purposes of the Ordinance.

## Laws of Hong Kong (Loose-leaf Edition)

### What is the *Laws of Hong Kong*?

- The *Laws of Hong Kong* is the statute book of Hong Kong.
- It is a compilation of Hong Kong legislation, namely, Ordinances and their Subsidiary Legislation.
- For the electronic version, access <https://www.elegislation.gov.hk/>.

### What does an Ordinance look like in the *Laws of Hong Kong*?

The Ordinance, e.g. the Copyright Ordinance, looks like this when published in the *Laws of Hong Kong*:

#### Pink Page of CAP. 528

Cap. 528	i		
<b>核對表及指引</b> <b>Check List and Instructions</b>			
<b>《版權條例》</b> <b>(第 528 章)</b> <b>COPYRIGHT ORDINANCE</b> <b>(A) (CAP. 528)</b>			
<small>如欲確定此乃本成文法則的最新核對表及指引，請參閱第 I 冊內的總核對表及指引第 II 部所載本成文法則的核對表及指引的刊印期數，該刊印期數應與此頁右下角所示的刊印期數相同。</small> <small>To verify that this is the latest Check List and Instructions for this enactment, please refer to the issue number of Check List and Instructions for this enactment shown in Part II of the Master Check List and Instructions in Volume I. Such issue number should be the same as the issue number shown at the lower right hand corner of this page.</small>			
<small>如欲知悉本成文法則文本切合何時的法律情況，請參閱第 I 冊內的總核對表及指引第 I 部。</small> <small>To determine how up to date the text of this enactment is, please see Part I of the Master Check List and Instructions in Volume I.</small>			
<b>移去頁數</b> <b>Withdraw pages</b>	<b>加插頁數</b> <b>Insert pages</b>	<b>目前應有頁數</b> <b>You should now have pages</b>	<b>刊印期數</b> <b>Issue number</b>
7 - 8 .....	7 - 8 .....	1 - 6 .....	38
14.1 .....	14.1 .....	7 - 8 .....	45
.....	.....	9 - 14 .....	41
.....	.....	14.1 .....	45
.....	.....	15 - 28 .....	38
.....	.....	29 - 30 .....	41
.....	.....	31 - 98 .....	38
.....	.....	99 - 100.2 .....	41
103 - 108 .....	103 - 108.5 .....	101 - 102 .....	38
.....	.....	103 - 108.5 .....	45
113 - 118 .....	113 - 118 .....	109 - 112 .....	38
.....	.....	113 - 118 .....	45
.....	.....	119 - 154 .....	38
.....	.....	155 - 156 .....	41
.....	.....	157 - 160 .....	38
.....	.....	161 - 170.2 .....	41

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**第 45 期**  
**Issue 45**

ii		Cap. 528	
<b>移去頁數</b> <b>Withdraw pages</b>	<b>加插頁數</b> <b>Insert pages</b>	<b>目前應有頁數</b> <b>You should now have pages</b>	<b>刊印期數</b> <b>Issue number</b>
.....	.....	171 - 180.....	38
.....	.....	181 - 184.....	41
.....	.....	185 - 204.....	38
.....	.....	205 - 208.23.....	41
.....	.....	209 - 210.....	38
211 - 212.....	211 - 212.10.....	211 - 212.10.....	45
.....	.....	213 - 234.....	38
.....	.....	235 - 240.....	41
.....	.....	241 - 243.....	38
<b>(B) 制定史</b>		<b>Enactment History</b>	
<p>本為 1997 年第 92 號 — 1997 年第 362 號法律公告、1997 年第 115 號、1998 年第 22 號、1998 年第 25 號、1999 年第 95 號法律公告、1999 年第 22 號、1999 年第 54 號、2000 年第 173 號法律公告、2000 年第 28 號、2000 年第 36 號、2000 年第 48 號、2000 年第 64 號、2002 年第 14 號、2002 年第 106 號法律公告、2003 年第 27 號、2004 年第 29 號法律公告、2004 年第 4 號、2007 年第 130 號法律公告、2007 年第 15 號、2009 年第 15 號</p>		<p>Originally 92 of 1997 — L.N. 362 of 1997, 115 of 1997, 22 of 1998, 25 of 1998, L.N. 95 of 1999, 22 of 1999, 54 of 1999, L.N. 173 of 2000, 28 of 2000, 36 of 2000, 48 of 2000, 64 of 2000, 14 of 2002, L.N. 106 of 2002, 27 of 2003, L.N. 29 of 2004, 4 of 2004, L.N. 130 of 2007, 15 of 2007, 15 of 2009</p>	
<b>(C) 尚未實施 —</b>		<b>The following are not yet in operation —</b>	
<p>新訂的第 25(1)(e)至(f)及(3A)條及附表 7 第 3 部 — 見 2007 年第 15 號第 6(1)及(4)及 75 部分自 25.4.2008 起實施(見 2008 年第 47 及 48 號法律公告)條</p> <p>對第 25(3)及 198(1)在它們“租賃”的定義的(e)至(f)段有關的範圍內)條的修訂 — 見 2007 年第 15 號第 6(2)及 47(2)條</p> <p>對第 174(2)條的修訂 — 見 2010 年第 17 號第 112 條</p>		<p>New s. 25(1)(e) to (f) and (3A) and Part 3 of Schedule 7 — see 15 of 2007 ss. 6(1) and (4) and 75 (to come partly into operation on 25.4.2008 (see L.N. 47 and 48 of 2008))</p> <p>Amendments to ss. 25(3) and 198(1) (insofar as it relates to paragraphs (e) to (f) of the new definition of “rental right”) — see 15 of 2007 ss. 6(2) and 47(2)</p> <p>Amendment to s. 174(2) — see 17 of 2010 s. 112</p>	
<b>附註 —</b>		<b>Remarks —</b>	
<p>有關《立法會決議》(2007 年第 130 號法律公告)所作之修訂的保留及過渡性條文，見載於該決議第(12)段。</p>		<p>For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.</p>	
第 45 期 Issue 45		認可活頁版：由香港特別行政區政府物流服務署署長印製及發行 Authorized Loose-leaf Edition, Printed and Published by the Director of Government Logistics, Hong Kong Special Administrative Region	

- Note: (A) This tells you the Chapter Number of the Copyright Ordinance, which is CAP. 528.
- (B) This tells you the number and year of the original Ordinance and then lists amendments by other Ordinances or Regulations.
- (C) This tells you whether any part of the Ordinance did not come into force on the date the Ordinance was issued in the Loose-leaf *Laws of Hong Kong*.

## CHAPTER 528

### **(E)** COPYRIGHT

**(F)** An Ordinance to make provisions in respect of copyright and related rights and for connected purposes.

*(Amended 15 of 2007 s. 3)*

<b>(G)</b> [The Ordinance, other than sections 142 to 149 and paragraph 5 of Schedule 4	}	27 June 1997	92 of 1997	<b>(H)</b>
Sections 142 to 144	}	25 July 1997	L.N. 406 of 1997	
Sections 145 to 149 and paragraph 5 of Schedule 4	}	13 July 2001	L.N. 127 of 2001]	

#### PART I

#### PRELIMINARY

##### **1. Short title and interpretation (I) & (J)**

- (1) This Ordinance may be cited as the Copyright Ordinance.
- (2) *(Omitted as spent)*
- (3) The tables showing the provisions defining expressions used in Part II and Part III are set out in sections 199 and 239 respectively.

- Note:
- (D)** This is the running head which gives the Chapter Number and the short title of the Ordinance.
  - (E)** This is another short title.
  - (F)** This is the long title of the Copyright Ordinance.
  - (G)** The date(s) in square brackets is the date on which the Ordinance received the Chief Executive's assent, or the date(s) on which the Ordinance or sections of it shall come into operation.
  - (H)** It is the citation number, 92 of 1997.
  - (I)** Section 1 tells you that this Ordinance can be conveniently known as Copyright Ordinance.
  - (J)** Interpretation section specifies the meaning in which certain words or phrases are used for the purposes of the Ordinance.

## How is the *Laws of Hong Kong* organized?

Index .....	In Index vol.
I—Index (in order of number of strokes of Chinese character)	
II—Index (in alphabetical order)	
III—Chinese Subject Index to Ordinances	
IV—English Subject Index to Ordinances	
V—Chronological Table of Ordinances	
Constitutional Instruments, National Laws & other Decisions and Instruments, etc .....	In vol. 1
Ordinances .....	Cap. 1–613 & Cap. 1001–1181
Private Ordinances .....	Cap. 1001–1181

## Finding and Updating an Ordinance

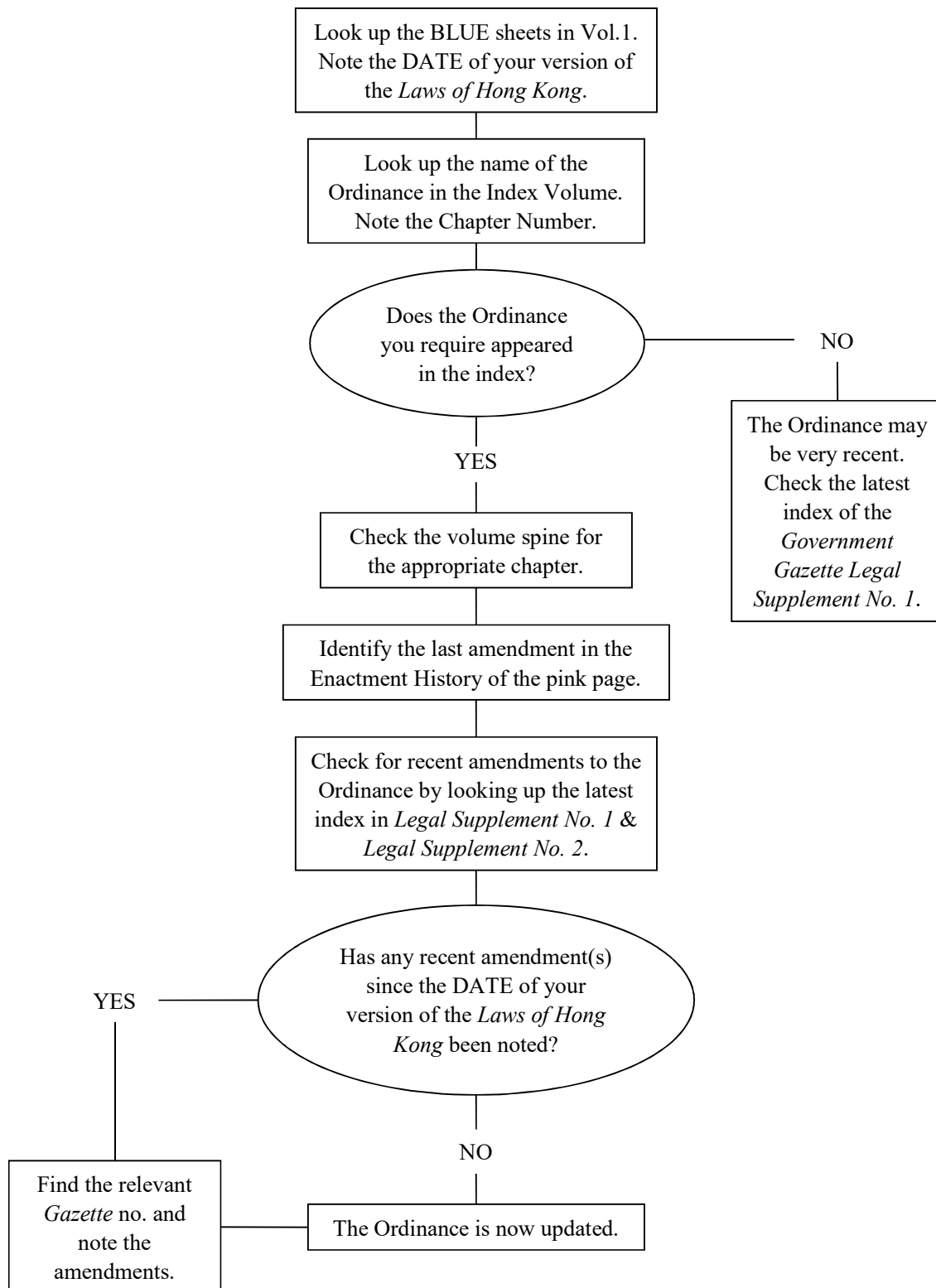
- Consult these Materials
  - o Find an **Ordinance**
    - by name..... Index vol.
    - by chapter (Cap.) number ..... Volume spines
    - by subject ..... Index vol.
    - by year and original ordinance number..... Chronological Table (Index vol.)
  - o Trace the history of an **Ordinance** ..... Pink page and **L. S. No. 1 & 2**
  - o Update an **Ordinance** ..... Index vol., vol. 1 Blue pages, Pink page then subsequent **L. S. No. 1 & 2**
  - o Find a **Regulation** (i.e. Subsidiary Legislation) ..... Index vol. under the name of the Ordinance
  - o Trace the history of a **Regulation** ..... Pink page & **L. S. No. 1 & 2**
  - o Update a **Regulation** ..... Index vol., Pink page, then subsequent **L. S. No. 1 & 2**
  - o Find a bill ..... Pink page and **L. S. No. 3**
  - o Find LegCo debates with respect to a particular bill..... Pink page & index to *Hansard*

- Take These Steps
  - o To check how up-to-date your version of an Ordinance is, you should go to the front of Volume 1 and look at the Blue pages — what date does it give you for your version?
  - o Check the Pink page which comes before an Ordinance itself. Identify the last amendment in the section of Enactment History.
    - Go to *Government Gazette Legal Supplement No. 1* and look for the **latest monthly index**, which includes an index to new Ordinances recently passed by LegCo and amendments to Ordinances.
    - Look up the Index of Amendments, Repeals, etc. and check if there have been amendments to the Ordinance since the last issue of the Loose-leaf Edition of the *Laws of Hong Kong*.
    - Check *Legal Supplement No. 2* in case there has been some amendment by Legal Notice.
    - The printed version of *Government Gazette Legal Supplement No. 1* and *No. 2* is shelved next to the *Laws of Hong Kong*. The online version is also available, URL—<http://www.gld.gov.hk/egazette/>.
  - o For updating an Ordinance, you may also consult with the *Hong Kong Law Reports & Digest Yearbook* which also contains amendments of Ordinances. There is a Cumulative Table of Amended Legislation in Part II of the monthly issue — this includes amendments made in that year.
  - o You may also want to access the electronic version of the *Laws of Hong Kong* from these web sites:
    - *Hong Kong e-Legislation* (official database freely available to the general public), URL — <https://www.elegislation.gov.hk/>
    - *Lexis Advance Hong Kong* (library subscription), access from the Electronic Resources on Law — Databases web page, URL — <http://lbsystem.lib.cityu.edu.hk/ereslist/index.php?type=db&format=subj&subj=law>
    - *Westlaw Asia* (library subscription), access from the Electronic Resources on Law — Databases web page, URL — <http://lbsystem.lib.cityu.edu.hk/ereslist/index.php?type=db&format=subj&subj=law>



- A Flow Chart

The chart below summarizes the aforementioned steps.



## ***Annotated Ordinances of Hong Kong* (published by Butterworths Asia; 1995 to date)**

It provides selected chapters of the *Laws of Hong Kong* with annotation. Ordinance and subsidiary legislation are bound together into individual booklets which are arranged by the sequence of chapter number. The Library subscribes to both the printed and online versions of this reference. The latter is available from the database, *Lexis Advance Hong Kong*.

### **Finding a Subsidiary Legislation**

#### **What is subsidiary legislation?**

- Subsidiary legislation is also known as secondary legislation, subordinate legislation or delegated legislation.
- It includes rules, regulations, orders or resolutions. They are made by people or bodies (other than LegCo) empowered by some law (e.g. an Ordinance).

#### **Where is subsidiary legislation published?**

- Subsidiary legislation is first published in the *Gazette Legal Supplement No. 2*. Print copies of the current issues are shelved together with the *Laws of Hong Kong*. Online version is accessible from <http://www.gld.gov.hk/egazette/>.
- Subsidiary legislation is subsequently published in the *Laws of Hong Kong* following a green page at the end of its related Ordinance(s).
- Subsidiary legislation, like Ordinances, always begins with a pink page.
- You can also find subsidiary legislation on the three web sites which provide *Laws of Hong Kong*, namely *Hong Kong e-Legislation*, *Lexis Advance Hong Kong*, *Westlaw Asia*.

## **1.4 Case Law**

#### **What is case law?**

- The term “case law” refers to the decisions made by Judges in the Courts.
- It is also known as the **judge made law**.
- Case law is a major source of law as certain previous judicial decisions will bind lower Courts.
- Statutory law prevails over case law whenever there is a conflict between them.

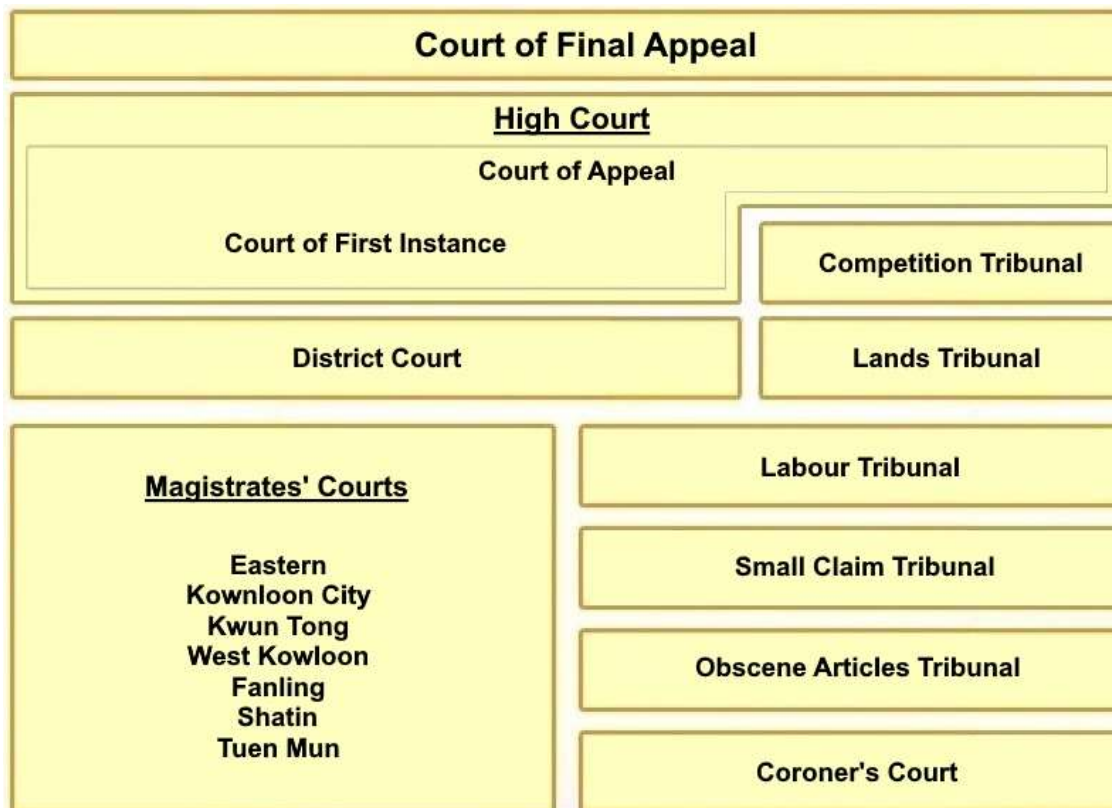
#### **What case would be a precedent?**

A case is a precedent if it has established a new principle of law, or overturned an older one.

## What is binding precedent?

- The doctrine of binding precedent is often known as the doctrine of *stare decisis*.
- When a judicial decision sets a precedent, the decision will oblige all the Judges in the lower Courts to abide by that decision.
- According to the binding precedent:
  - All Courts must consider relevant case law.
  - Decisions of higher Courts bind all lower Courts.
- Before 1997, Hong Kong Courts were bound by decisions of the higher English Courts. Since 1997, English cases are only persuasive precedents.

## Structure of the Hong Kong Courts\*



## What is a law report?

- A law report, also known as case report, is the written report of a case heard in the Courts.
- The Courts hear and decide many cases each year but only selected cases are published in the law reports.
- Cases are sometimes reported in more than one set of law report series.

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\* Please see the Judiciary, HKSAR web site [https://www.judiciary.hk/en/about\\_us/courtchart.html](https://www.judiciary.hk/en/about_us/courtchart.html).

## What does a law report look like?

A law report looks like this, using the case of *Feerni Development Ltd v Daniel Wong & Partners*<sup>†</sup> as an example:

			13
↑	(1)	A	<b>Feerni Development Ltd</b> Plaintiff
			<b>and</b>
			<b>Daniel Wong &amp; Partners</b> Defendant
	(2)	B	(Court of First Instance)
	(3)		(High Court Action No 15803 of 1998)
	(4)	C	Deputy Judge Gill
	(5)		16–21 October, 7–8 and 21 November 2000
	(6)		<i>Tort — negligence — professional negligence — conveyancing solicitor — failed to exercise reasonable care and skill</i>
		D	<i>Contract — terms — implied terms — solicitor — duty to carry out service with reasonable care and skill — Supply of Services (Implied Terms) Ordinance (Cap.457) s.5</i>
		E	<i>Wills, probate and succession — personal representative — sale to company of which representative was director and shareholder — representative absolutely precluded from buying trust property — Probate and Administration Ordinance (Cap.10) s.55</i>
		F	<i>Damages — professional negligence — breach of duty by conveyancing solicitor — damages awarded for loss of profit</i>
			<i>Legal profession — solicitor — conveyancing solicitor — whether negligent [Probate and Administration Ordinance (Cap.10) s.55; Supply of Services (Implied Terms) Ordinance (Cap.457) s.5]</i>
		G	侵權法 — 疏忽 — 專業疏忽 — 物業轉易律師 — 沒有行使合理程度的謹慎及技術 合約法 — 條款 — 隱含條款 — 律師 — 有責任以合理程度的謹慎及技術作出服務 — 《服務提供(隱含條款)條例》(第457章)第5條
		H	遺囑、遺囑認證及承繼 — 遺產代理人 — 售予以代理人為董事及股東的公司 — 代理人絕對不能購買信託財產 — 《遺囑認證及遺產管理條例》(第10章)第55條 賠償 — 專業疏忽 — 物業轉易律師違反責任 — 判給損失利潤的賠償
		I	法律專業 — 律師 — 物業轉易律師 — 是否疏忽 [《遺囑認證及遺產管理條例》(第10章)第55條；《服務提供(隱含條款)條例》(第457章)第5條]
	(7)	J	P was a company which bought and sold properties for investment. In 1995, it bought a property from a company. D, a firm of solicitors, acted on P's behalf. The transaction was dealt with by S, a conveyancing clerk

<sup>†</sup> The above text was reproduced from *Feerni Development Ltd v Daniel Wong & Partner* [2001] 2 HKLRD 13, with the approval of the Sweet & Maxwell Asia, the publisher of the *Hong Kong Law Reports and Digest*.

of 22 years' experience, and was overseen by a partner. The property had been sold to the company in 1988 by C, in his capacity as personal representative of his father's estate. C was also a Director and shareholder of the company and signed the sale and purchase agreement and assignment (the 1988 assignment) as both vendor, and for and on behalf of the purchaser. C's dual role rendered the 1988 assignment voidable. In 1996 and 1998, P attempted to sell the property, but both purchasers cancelled after raising requisitions claiming that the 1988 assignment was voidable pursuant to s.55 of the Probate and Administration Ordinance (Cap.10). Section 55 provided that "If a personal representative purchases ... indirectly, any of the property of the deceased, the sale shall be voidable at the instance of any other person interested in the property sold." By 1998, property prices had fallen, and after both abortive sales, P rented out the property to mitigate its loss.

P brought proceedings against D for negligence and breach of contract, claiming that D should have alerted it to the effect of s.55 and raised a requisition in this regard. D contended that it made a judgment call not to raise a requisition as it considered the 1998 assignment was not caught by s.55; and even if this was wrong, it was an error of judgment which a competent and careful solicitor could have made and did not amount to a breach of duty.

(8) **Held**, ruling in favour of P, that:

*Liability*

- (1) A solicitor owed a duty to his client to carry out his services with reasonable care and skill, both in contract, implied pursuant to s.5 of the Supply of Services (Implied Terms) Ordinance (Cap.457), and in tort. The degree of care and skill was that to be expected of a competent and reasonably experienced solicitor. A conveyancing solicitor acting for a purchaser had a duty to ensure that the vendor could show and give good title (*Graybriar Industries Ltd v Davis & Co* (1992) 46 BCLR (2d) 164, *Foshan Hua Da Industrial Co v Johnson, Stokes & Master (a firm)* [1999] 1 HKLRD 418 followed). (See pp.27E–28G.)
- (2) However, where a solicitor's client acted in reliance on the advice of the solicitor and thereby suffered loss, he could not recover that loss in damages just because the advice was wrong if it was based only on an error of judgment and no more than that (*Bannerman Brydone Folster & Co v Murray & Another* [1972] NZLR 411 followed). (See pp.28H–29I.)
- (3) D's failure to raise a requisition on the 1988 assignment was not a judgment call. It occurred because both S and the overseeing partner failed to inspect it and find that the person who signed as the vendor-administrator and for and on behalf of the purchaser was one and the same. (See p.30E–F.)
- (4) Although s.55 was not clearly drafted, a conveyancer should be well aware that a personal representative was bound to do every-

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- A thing in his power for the benefit of the estate and was therefore absolutely precluded from buying the trust property. A competent and reasonably experienced solicitor would have been aware of this and would have raised a requisition, as the solicitors for the subsequent purchasers had done. Accordingly, D was negligent (*Re Boles and British Land Co's Contract* [1902] 1 Ch 244 applied). (See pp.30F–31H.)
- B

#### Damages

- (5) Although the general rule was that damages for tort or breach of contract were assessed at the date of the breach, this should not be mechanistically applied in circumstances where assessment at another date might more accurately reflect the overriding compensatory rule of placing the injured party in the same position as he would have been if he had not sustained the wrong (*County Personnel (Employment Agency) Ltd v Alan R Pulver & Co* [1987] 1 WLR 916 followed). (See p.33B–H.)
- C
- D
- (6) P's loss arose from the loss of profit that would have been won had the 1996 sale gone through: the profit it would have gained after the sale of a similar profit won on a like investment. The loss would be measured by taking the contract price in the aborted 1996 sale, less costs of sale, plus conveyancing costs thrown away, less net rentals earned in the meantime, less the present value of the property, plus interest (*McElroy Milne v Commercial Electronics Ltd* [1993] 1 NZLR 39 considered). (See pp.32J–33A, 33I–34E.)
- E

#### F Action

This was an action by the plaintiff against the defendant firm of solicitors for negligence in contract and tort in respect of conveyancing work. The facts are set out in the judgment.

- (9) G Mr Valentine Yim, instructed by Wong, Packwood & Co, for the plaintiff.  
Mr Godfrey Lam, instructed by Baker & McKenzie, for the defendant.

#### (10) Legislation mentioned in the judgment

- H Probate and Administration Ordinance (Cap.10) s.55  
Supply of Services (Implied Terms) Ordinance (Cap.457) s.5

#### (11) Cases cited in the judgment

- Bannerman Brydone Folster & Co v Murray & Another [1972] NZLR 411
- I Boles and British Land Co's Contract, Re [1902] 1 Ch 244  
County Personnel (Employment Agency) Ltd v Alan R Pulver & Co [1987] 1 WLR 916, [1987] 1 All ER 289, [1986] EGLR 246  
Foshan Hua Da Industrial Co v Johnson, Stokes & Master (a firm) [1999] 1 HKLRD 418, [1999] 1 HKC 192
- J Graybriar Industries Ltd v Davis & Co (1992) 46 BCLR (2d) 164  
McElroy Milne v Commercial Electronics Ltd [1993] 1 NZLR 39

Midland Bank Trust Co Ltd v Hett, Stubbs & Kemp [1979] Ch 384, A  
[1978] 3 WLR 167, [1978] 3 All ER 571, [1955-95] PNLR 95

**Other materials mentioned in the judgment**

*Jackson & Powell on Professional Negligence* (4th ed.)

*McGregor on Damages* (16th ed.) p.236 B

*Williams, Mortimer & Sunnucks on Executors, Administrators and Probate*  
(17th ed.) p.703

(12)

**Deputy Judge Gill**

The defendant is a firm of solicitors instructed by the plaintiff to act C  
for it in the purchase of a ground floor shop in Tsuen Wan and in a  
subsequent sale of it. The purchase proceeded to completion uneventfully.  
It is the plaintiff's case that since then it has tried twice to sell it without  
success. On each occasion agreements were entered into but the  
purchasers discovered a defect in the title document and requisitioned D  
for rectification. The plaintiff was unable to rectify resulting in the  
cancellation of both sales. It is the plaintiff's complaint that when it  
purchased the shop the defendant did not alert it to the defect or raise  
the same requisition with which it, as subsequent vendor, was obliged  
to deal, or otherwise make proper enquiry, resulting in consequential loss. E

By this action the plaintiff is suing the defendant for negligence in  
contract and tort to recover that loss. The defendant denies liability  
and quantum and otherwise puts the plaintiff to proof.

**History** F

Mr Chan Chi Hin (Chan) for a number of years prior to the period  
in question had engaged in the buying and selling of real estate, of  
which the shop in Tsuen Wan was a typical example, for profit. The  
plaintiff was one of a number of companies of which he was a G  
shareholder and Director incorporated by him for the express purpose.  
Much — perhaps most — of his conveyancing he entrusted to a  
conveyancing clerk called Mr David So Hon Shing (So). So began  
working in this field in 1972. In 1994, he became employed by the  
defendant. By the end of that year he had 22 years' experience. H  
Although not legally qualified he was well-versed in the procedures  
involved in a transaction and unless something untoward happened  
was able to deal with a purchase and sale with minimal supervision.

The property market in Hong Kong is, to say the least, volatile. I  
In 1994, there had been something of a slump in values and activity.  
1995 saw a period of gradual recovery. In 1996, that accelerated and  
there was a marked increase in values and transactions which persisted  
through the first three quarters of 1997. Then, sparked by the South-  
East Asian economic crisis, there was a spectacular downturn in the  
final quarter of 1997. By 1998, many properties were worth only half J  
their value of a year earlier. Hong Kong is gradually recovering from  
that but prices are still well below their peak of 1997.

Note: (1) These are the names of the parties.

A case is referred to by its name, which is derived from the names of the parties.

- In **Civil** cases, the name of the plaintiff will appear first, followed by that of the defendant. For example:

- o NINA KUNG v WANG DIN SHIN

When a government official is involved in a case in his official capacity, he is designated by his office. For example:

- o NG WAI SANG v THE COMMISSIONER OF POLICE

- In **Criminal** cases, before 1997, **R**, the **Queen**, or sometimes **A-G** or the **Attorney-General** precedes the name of the defendant. After 1997, **HKSAR** or sometimes **Secretary for Justice** is used.

- o HKSAR v HONG CHANG CHI

- **Family** and property cases often start with **Re**, or **In re**, meaning in the matter of, followed by the name or an initial in cases where the **identity of the individual is protected**.

- o Re an infant

- **Probate** Cases sometimes start with **In the matter of**, **In the estate of**, **In the goods of**, for example:

- o IN THE ESTATE OF NG PUI LIN, LATE OF FLAT I, 5TH FLOOR, 251-261 SHAUKEIWAN ROAD, HONG KONG, CONCUBINE, DECEASED AND IN THE MATTER OF RULE 62(1) OF THE NON-CONTENTIOUS PROBATE RULES CAP 10 (PROBATE JURISDICTION 1989, No. A1796)

- o In the Matter of the Trusts of the Will and Codicil of Wei Ah Kwong, deceased, and In the Matter of the Trustee Ordinance, Chapter 29 of the Laws of Hong Kong. [1957] HKLR 164

- o In the Goods of Chan Tse Shi, late of No. 29B Wyndham Street, Victoria in the Colony of Hong Kong, Widow, deceased. [1954] 38 HKLR 9

- **Admiralty** cases are frequently referred to by the Ship involved, on the fiction that the Ship is the defendant, for example:

- o THE SPARTI [2000] 3 HKC 323

Admiralty cases can also be cited like other civil cases, for example:

- o BANQUE WORMS v OWNERS OF THE SHIP OR VESSEL "MAULE" (CYPRUS FLAG) & ANOTHER [1997] HKLRD 398

- (2) This tells you the name of the Court.

The report refers to the Court in which the case was heard. This information is vital if the doctrine of **binding precedent** is to operate.

- (3) This tells you the registry's reference.

- (4) This tells you the name of the Judge.

- (5) This tells you the date of hearing.

- (6) This tells you the "catchwords" or index headings, enabling you to ascertain at a glance what the case is about.

- (7) This is the history of the case.

- (8) This is the summary of the findings and the rule of law applied.

- (9) This tells you the name of the lawyers (barristers and solicitors) involved.

- (10) This is the legislation (statutes) mentioned in the judgment.

- (11) These are the cases cited in the judgment.

- (12) This is the beginning of the judgment.



## **What are the major law reports series in Hong Kong?**

The major law reports series in Hong Kong can be categorized as:

- General law reports series
- Specialist law reports series.

## **What are the general law reports series?**

The general law reports select cases of general legal interest that

- are decided in the Courts EACH YEAR.
- are arranged in alphabetical order by case name.
- are issued periodically, such as, daily, weekly, bi-weekly, monthly, etc. and are then bound annually.

## **What are the major general law reports series in Hong Kong?**

The major general law reports in Hong Kong include:

- *The Authorised Hong Kong Law Reports and Digest (HKLRD)*, 1997 to date.
- *Hong Kong Cases (HKC)*, 1946 to date.
- *Hong Kong Court of Final Appeal Reports (HKCFAR)*, 1997 to date.
- *Hong Kong District Court Law Reports (DCLR)*, 1953–1996.
- *Hong Kong Law Reports (HKLR)*, 1905–1996.
- Unreported Judgments (Unrep).

### ***The Authorised Hong Kong Law Reports and Digest (HKLRD)***

- Published by Sweet & Maxwell Asia since 1997.
- This incorporates both the *Hong Kong Law Digest* and *Hong Kong Law Reports* into one publication.
- 24 issues yearly or twice a month in a loose part format.
- The first loose part (Part 1) published contains only reported cases.
- The second loose part (Part 2) published contains reported cases, digests of additional cases, digests of legislation and cumulative tables.
- *HKLRD* is also available online from *Westlaw Asia*.

### ***Hong Kong Cases (HKC)***

- Published by Butterworths Asia in Hong Kong since 1946.
- A collection of selected decisions of Hong Kong Courts and appeals made to the Hong Kong Court of Final Appeal (or the Privy Council before 1<sup>st</sup> July 1997).
- 24 issues yearly.
- Contains a subject index together with a table of cases, a table of cases referred to, a table of legislation considered and referred to, and a table of other sources referred to.
- Annual bound volumes and consolidated indexes are available.
- Also available online from *Lexis Advance Hong Kong*.

### **香港中文判案書與英譯本彙編 *Hong Kong Chinese Law Reports & Translations***

- Published by Sweet & Maxwell.
- A collection of Chinese cases published in 7 volumes. Volume 1: 1995–2000, Volume 2: 2001–2004, Volume 3: 2005, Volume 4: 2006, Volume 5: 2007, Volume 6 and 7: 2008.
- A fully bilingual law report with original Chinese decisions and official English translations by the Judiciary.
- Subsequent Chinese judgments with full English translations are available from the *Hong Kong Law Reports and Digest* 2009 volumes and onwards.

### ***Hong Kong Court of Final Appeal Reports (HKCFAR)***

- Published by Sweet & Maxwell Asia since 1997.
- Published quarterly.
- Contain subject index, legislation mentioned in judgments, cases cited in judgments and other materials mentioned in judgments.
- Selected Hong Kong Court of Final Appeal cases are available from *Westlaw Asia*.

### ***Hong Kong District Court Law Reports (DCLR)***

- Published by the Government Printer, 1953–1995.
- Published by Pearson Professional (Hong Kong) in 1996.
- Incorporated into the bound volume of *Hong Kong Law Reports* in 1996.
- A digest and a consolidated index of the *District Court Law Reports of Hong Kong* 1953–1971 and 1972–1977 are available.
- Starting from 1997, selected District Court cases are available from the *Authorised Hong Kong Law Reports and Digest*.

### ***Hong Kong Law Reports (HKLR)***

- Published by the Government Printer, 1905–1995.
- Published by Pearson Professional (Hong Kong) in 1996.
- Includes cases reported in 1905–1996.
- Published monthly. Each issue contains report of Supreme Court cases, with *Hong Kong Criminal Law Reports* and *District Court Law Reports* published as supplements.
- Annual volumes are bound separately as *Hong Kong Law Reports*, *Hong Kong Criminal Law Reports* (1992–1995) and *Hong Kong District Court Law Reports* (1953–1995).
- Consolidated indexes of 1905–1993 are available in 5 volumes.
- *HKLR* is also available online from *Westlaw Asia*.

### **Unreported Judgments (Unrep)**

- Bound volumes (1977–2002) are arranged with reference to the court names, the years and the case numbers. They are shelved at stack D in the Quick Reference Area of the Law Collection and Services Section.
- To look up cases in these volumes, consult the index which is kept next to the bound volumes.
- Unreported judgments between 1946 and 1948, and from 1966 onwards are available in the Judiciary web site, URL—[https://www.judiciary.hk/en/judgments\\_legal\\_reference/judgments.html](https://www.judiciary.hk/en/judgments_legal_reference/judgments.html).

## What are specialist law reports series?

The specialist law reports are selected case reports that

- cover certain specific subject areas, such as the *Hong Kong Tax Cases (HKTC)*.
- are arranged in alphabetical order with reference to the case names.
- are published periodically, namely, daily, weekly, bi-weekly, monthly, etc. and then bound annually.

## What are the specialist law reports in Hong Kong?

The specialist law reports in Hong Kong include:

- *The Hong Kong Conveyancing and Property Reports (CPR)*, 1980 to date.
- *Hong Kong Criminal Law Reports (HKCLR)*, 1992–1995.
- *Hong Kong Family Law Reports (HKFLR)*, 2005 to date. Also available from *Lexis Advance Hong Kong*.
- *Hong Kong Inland Revenue Board of Review Decisions (IRBRD)*
  - In print format: Vol. 1, 1982–Vol. 23 Part 2, 2008/09
  - In electronic format: Vol. 1, 1982 to date, URL—<https://www.info.gov.hk/bor/en/decisions.htm>.
- *Hong Kong Public Law Reports (HKPLR)*, 1991 to date. Also available from *Lexis Advance Hong Kong*, 1995 to date.
- *Hong Kong Revenue Cases (HKRC)* in CCH's *Hong Kong Revenue Legislation*, 1989 to date.
- *Hong Kong Tax Cases (HKTC)*, v1 to date.

## What is a case citation?

A case citation is used to refer to a case.

## What does a case citation look like?

The following are examples of complete citation for two cases:

<i>Feerni Development Ltd and Daniel Wong &amp; Partners</i>	[2001]	2	HKLRD	13
↑	↑	↑	↑	↑
Parties' Names	Year of the Law Reports	Volume	Abbreviations for the relevant Law Reports	Page Numbers
↓	↓	↓	↓	↓
<i>CIR v HK-TVB International Ltd</i>	(1991)	3	HKTC	468

If the year is given in square brackets [ ], this means that the year is essential to find the relevant volume.

If the year is given in round brackets ( ), the publication (law report) in which the case is reported is identified by its volume number. This means that volume number alone would be enough to find the volume.

### **How can I find a case when I have a complete citation?**

To find a case when you have a full citation, for example,

*Feerni Development Ltd v Daniel Wong & Partners* [2001] 2 HKLRD 13

you may follow these steps:

- Find out the full title of the abbreviation of *HKLRD*, by consulting:
  - annual bound volumes *Hong Kong Law Reports and Digest*, or
  - other legal abbreviation lists.
- Search the full title of the law report in the CityU LibraryFind to see if it is available in the Library.
- If yes, go directly to the shelves to find the relevant volume and page number.
- To locate the electronic version, search *Lexis Advance Hong Kong* or *Westlaw Asia*.

### **How can I find a case when I only have the parties' names?**

To find a case when you only have the parties' names, you may consult the consolidated indexes of the Hong Kong law report series or a case citator. You can also search the parties' names in *Lexis Advance Hong Kong* or *Westlaw Asia*.

## **What are the commonly used case indexes and case citators in Hong Kong?**

The commonly used case citators and indexes include:

- *Consolidated Index to All Reported Hong Kong Decisions*
- *Hong Kong Case Citator*
- Consolidated indexes to the *Hong Kong Law Reports*, *Hong Kong Cases*, and *District Court Law Reports of Hong Kong*
- *Hong Kong Law Digests / Yearbook* (especially for the unreported cases)
- For recent cases, use the index to the current issues of the *Hong Kong Law Reports and Digest* and *Hong Kong Cases*.

## **How to monitor the recent cases in Hong Kong?**

You may take the following paths to keep track of the latest cases:

- Access the Judiciary web site, [https://www.judiciary.hk/en/judgments\\_legal\\_reference/judgments.html](https://www.judiciary.hk/en/judgments_legal_reference/judgments.html) and then select “Newly Added Judgments”. You will see the judgments added within the last few days.

## 2. Secondary Sources

### What are secondary sources?

Secondary sources are material ABOUT the **law**. They include:

- books
- encyclopaedias
- digests
- periodicals
- theses / dissertations
- dictionaries
- directories
- indexes
- government publications
- electronic resources

### Why do we need to use secondary sources?

You need to use secondary sources when you want to find out how other scholars or law specialists have commented upon certain legal topics or primary materials (such as cases and/or statutes) that you are working on.

### What kind of secondary sources should I begin with when writing an essay or conducting research?

Using the topic, Hong Kong contract law, as an example:

- You may begin with books on Hong Kong contract law.
- Dictionaries and encyclopaedias may be used to find out the definition and basic information on contract law.
- You may also want to use digests which contain a summary on Hong Kong contract law.
- Journal articles, i.e. essays on Hong Kong contract law that are published in periodicals, are valuable sources where you can read about comments from scholars and law specialists. An effective way to search for journal articles is to use electronic databases.
- When searching for secondary sources, such as books, by using CityU LibraryFind, or searching electronic databases, you must be IMAGINATIVE and RESOURCEFUL in choosing the keywords.

## 2.1 Law books

### What are law books?

Law books are monographs on the law. They include books on different law subjects, casebooks, practice books, precedent books, etc.

Use CityU LibraryFind to find books in the Library.

Some books are of a reference nature. They are also known as legal specialist reference books. Due to the high demand, a majority of these are kept behind the Law and Reference Help Desk. A few of them are also published in electronic format and can be accessed online. Examples:

- *Atkin's Court Forms Hong Kong*
- *Company Law in Hong Kong. Insolvency*
- *Company Law in Hong Kong. Practice and Procedure*
- *Criminal Evidence in Hong Kong*
- *Criminal Procedure : Trial on Indictment*
- *Hong Kong Company Law and Practice*
- *Hong Kong Construction Law*
- *Hong Kong Employment Ordinance : an Annotated Guide*
- *Hong Kong Personal Injury Service*
- *Hong Kong Revenue Legislation*
- *Hong Kong Tax Manual*
- *Professional Conduct of Lawyers in Hong Kong*

## 2.2 Encyclopaedias

### What is a legal encyclopaedia?

A legal encyclopaedia provides information on a broad range of legal topics, often of a specific jurisdiction or of a particular type of topic. Here are a few examples of Hong Kong titles.

#### ***Encyclopaedia of Hong Kong Taxation***

- The *Encyclopaedia of Hong Kong Taxation* is published by LexisNexis in Hong Kong, 1993 to date.
- It deals primarily with Hong Kong taxation matters.
- It also provides case law and legislation in many other jurisdictions, in particular Australia, Canada, Malaysia, New Zealand, Singapore and the United Kingdom.
- This extensive four-volume loose-leaf set provides quick and easy access to Stamp Duty in Volume 1, Estate Duty in Volume 2 and Taxation of Income in Volumes 3 and 4.

#### ***Halsbury's Laws of Hong Kong***

- The *Halsbury's Laws of Hong Kong* (1995 to date) is a set of encyclopaedic work on Hong Kong Law.
- It is arranged in alphabetical order by subject.
- Updates irregularly during each year, also issues supplementary Current Service loose-leaf.
- The set has started publishing the second edition.
- Also available in *Lexis Advance Hong Kong*.

#### ***Atkin's Court Forms Hong Kong (Formerly known as Hong Kong Court Forms in Civil Proceedings)***

- The *Atkin's Court Forms Hong Kong* is published by LexisNexis Butterworths in Hong Kong, 2001 to date.
- It is an encyclopaedia for civil litigation forms, precedents and procedure in Hong Kong.
- It provides a focused collection of all the procedural documents used in key proceedings under the civil jurisdiction of the High Court and District Court in Hong Kong.
- It is arranged under 18 titles in loose-leaf format.
- Also available in *Lexis Advance Hong Kong*.

## 2.3 Digests

### What is a law digest?

- A law digest provides summaries of cases, legislation and other legal information.
- In Hong Kong, we have a major law digest which is the *Hong Kong Law Reports & Digest* (1997 to date). (Full text is available for most cases.)
- Other Digests include:
  - *Hong Kong Law Digest (HKLD)* (1987–1996)
  - *Hong Kong Current Law* (1985–1986)
  - *Hong Kong Law Yearbook* (1985–1993)
  - *Hong Kong Law Digest Yearbook* (1994–1996)



## 2.4 Periodicals

### What are law periodicals?

- Periodicals may also be referred to as journals or magazines.
- They are usually characterized by a variety of contents: articles (essays) by different contributors, news, digests, book reviews, etc.
- Law periodical titles are usually cited (or referred to) by abbreviations. To find the full title, consult Raistrick's *Index to Legal Citations and Abbreviations* or the Cardiff Index to Legal Abbreviations, URL—<http://www.legalabbrevs.cardiff.ac.uk/>.
- The law periodicals can be categorized as follows:
  - Academic periodicals, e.g. *Hong Kong Law Journal* and *Asia Pacific Law Review*.
  - Practitioners' periodicals, e.g. *Hong Kong Lawyer*.
  - Specialist periodicals covering particular areas of law, e.g. *Company Lawyer*.
  - Newsletters or bulletins about recent development in particular areas of law, e.g. *Criminal Appeals Bulletin*.
  - Periodicals in other common law jurisdictions, e.g. *Australian Law Journal*, as well as international law reviews.
- To find a particular periodical title, use the CityU LibraryFind.
- To search across law reviews, take these steps
  - use databases which are listed on this web page, <http://lbsystem.lib.cityu.edu.hk/ereslist/index.php?type=db&format=subj&subj=law>, or
  - access free journals selected by the Law Collection and Services Section, <http://www.cityu.edu.hk/lib/collect/law/subjres/lawej.htm>.
- Some major periodicals published in Hong Kong are listed below:
  - *Asia Pacific Law Review*, 1992 to date
  - *City University of Hong Kong Law Review*, 2009 to date
  - *Hong Kong Law Journal*, 1971 to date
  - *Hong Kong Lawyer*, 1993 to date
  - *Hong Kong Journal of Legal Studies*, 2007 to date
  - *Hong Kong Student Law Review*, 1994–2006

## 2.5 Theses / Dissertations

### What are theses / dissertations?

- Theses / dissertations are long pieces of writing based on research and original ideas.
- They are usually written to fulfill the requirement of a university degree.

## How to find theses / dissertations?

- CityU theses / dissertations  
CityU higher degree dissertations and theses are searchable on the CityU LibraryFind. Their catalogue location code is “CityU Dissertations”. Print copies are kept in the Law Collection and Services Section electronic compact shelves. The full text of all research postgraduate theses and some taught postgraduate dissertations is also available online to CityU staff and students.
- Other local university theses / dissertations  
Visit each individual institution’s web site.
- Theses / dissertations from universities worldwide  
The Library subscribes to several databases which provide index to or even full text of these / dissertations of universities in other parts of the world. Visit this web page to find out and access those databases, URL—  
<http://lbsystem.lib.cityu.edu.hk/ereslist/index.php?type=db&format=srctype&srctype=diss>.

## 2.6 Dictionaries

### What are dictionaries?

- Dictionaries are books of words and phrases of a language with their meanings or their translations given in another language(s).
- Words and phrases are usually listed in dictionaries in alphabetical order (by strokes for some Chinese dictionaries).
- There are different kinds of dictionaries:
  - Conventional dictionaries, e.g. *Oxford English Dictionary*.
  - Judicial dictionaries of words and phrases, namely, words and phrases that have been considered by the Courts, e.g.
    - those listed in the annual bound volumes of *Hong Kong Law Reports & Digest*
    - *Stroud’s Judicial Dictionaries of Words and Phrases*
    - *Black’s Law Dictionary* (used for the study of U.S. law)
  - General law dictionaries, e.g.
    - *English-Chinese Glossary of Legal Terms* 英漢法律詞彙  
<https://www.elegislation.gov.hk/glossary/en>
    - *Chinese-English Glossary of Legal Terms* 漢英法律詞彙  
<https://www.elegislation.gov.hk/glossary/chi>
    - *Osborn’s Concise Law Dictionary*
    - *Oxford Dictionary of Law*
    - *Hong Kong English-Chinese Legal Dictionary*
    - *Hong Kong Legal Dictionary*
  - Biographical dictionaries contain lists of “who’s who” or “who was who” in the legal profession, e.g. *Who’s Who of the Law*.

## 2.7 Directories

### What are legal directories?

Directories provide listings of solicitors and barristers with their names, the names and addresses from which they practice, e.g. *Law List* <http://www.hklawsoc.org.hk/> and *Bar List* <https://www.hkba.org/Bar-List>.

### Why do we need legal directories?

You will need legal directories:

- if you are looking for a job in a law firm (*Law List*) or in counsel's chambers (*Bar List*).
- when you want to contact certain lawyers or barristers.

## 2.8 Indexes

### What is an index?

- An index is an alphabetical list of topics usually placed at the end of a book.
- Each listed topic refers you to the appropriate page(s) in the book where the topic was introduced or discussed.
- Some indexes (indices) are in volume format, e.g. index volume to the *Laws of Hong Kong*.

### What are the most frequently used legal indexes (indices)?

Here are the frequently used legal indexes. They are available in electronic format.

- *Index to Legal Periodicals and Books*
- *Legal Journals Index* available in *Westlaw Asia*

## 2.9 Government Publications

### What kind of Hong Kong government publications are we most likely to encounter?

The Hong Kong government publications that we often encounter are:

- 香港特別行政區政府憲報 *The Government of the Hong Kong Special Administrative Region Gazette*
- Codes of practice
- *Hansard*
- White Papers
- Consultative documents (some are known as Green Papers)
- Law Reform Commission publications
- Commissions of inquiry publications
- Departmental reports
- Other publications

### **What is the *Government of the HKSAR Gazette*?**

It is a government publication which contains official notifications to the community.

There are seven supplements. The first three supplements are on legal matters. They are:

- *Legal Supplement No. 1* that contains the text of Ordinances.
- *Legal Supplement No. 2* that contains the text of Regulations.
- *Legal Supplement No. 3* that contains the text of Bills. They are printed on BLUE paper.
- Also available online, URL—<http://www.gld.gov.hk/egazette/>.

### **What is a code of practice?**

A code of practice is a body of rules for practical guidance only and does not have the force of law. However some codes of practice have legal effect if spelled out in legislation, e.g. the Road Users' Code.

### ***Hansard***

#### **What is *Hansard*?**

- *Hansard* is officially known as the *Reports of the Meetings of the Legislative Council of Hong Kong*.
- It is published in English and Chinese (in English only before 1985).
- It records the debates on legislation, or particular topics, also reports the questions raised by LegCo members.
- Each LegCo year runs from October.
- Also available online, <https://app.legco.gov.hk/HansardDB/english/Search.aspx>.

#### **What does *Hansard* contain?**

There is an issue for each LegCo sitting (once a week). There is no index until the bound volumes appear.

#### **Why do I need to consult *Hansard*?**

You need to consult *Hansard* if you want to find out how a particular Bill had been debated in LegCo before it was passed as a law.

#### **What should I do in order to read about the debate of a Bill in *Hansard*?**

You may take the following steps:

- Select an Ordinance in which you are interested.
- Find the Ordinance and the date when it was first enacted.
- Go to *Hansard*.
- Find the volumes for the relevant year.
- Find the index to Bills in the last volume.
- Locate the second reading of the Bill.
- Note the page number in the volumes.

#### **Why do we need to study the Second Reading of the Bill?**

This is because the SECOND READING usually contains a major debate on the principle of the Bill.

## **What should I do if I want to read about the debate on a recent Bill?**

Since *Hansard* does not have an index to its current issues, you can

- go directly to the issues for the relevant year (most likely the latest year), or visit the *Hansard* web site, URL—<https://app.legco.gov.hk/HansardDB/english/Search.aspx>.
- browse each individual printed or online issue, then
- locate the second reading of the Bill.

## **What are White Papers?**

A White Paper is a common term for a statement of intended policy, government memorandum or report issued in a white paper cover.

## **What are Consultative Documents?**

- Consultative documents are sometimes known as GREEN PAPERS.
- They are published for the comments of the Public.
- Consultative documents are not always termed Green Papers (and are not necessarily issued in a green paper cover).

## **What is the role of the Law Reform Commission?**

The role of the Law Reform Commission is to:

- propose the reform of the law.
- produce working papers or consultative documents inviting comments from the Public. For example:
  - in 2011, there is the Law Reform Commission of Hong Kong Consultation Paper: Charities.
- Many of the Law Reform Commission's publication can be downloaded from this web site, URL—<http://www.hkreform.gov.hk/>.

## **What are Commissions of Inquiry?**

The commissions of inquiry are formed for special problems, incidents or disasters. There have been many important reports published by various commissions of inquiry, e.g.

- in 2007, *Report of the Commission of Inquiry on Allegations Relating to the Hong Kong Institute of Education*.

## **Departmental Reports**

Some government departmental reports are of interest to lawyers. For instance:

- Reports of the Independent Police Complaints Council
- Reports of the Office of the Privacy Commissioner for Personal Data
- Reports of the Town Planning Board

## **Other Publications**

Government publications cover a very wide range of subject areas. To research a specific topic, it is best to search our CityU LibraryFind or browse the Government of the HKSAR home page, <http://www.gov.hk/>.

## 2.10 Electronic Resources

Electronic resources refer to electronic databases, electronic journals, electronic books, electronic theses, etc. You can find in there primary as well as secondary sources of law. This web site prepared by the Law Collection and Services Section contains both e-resources subscribed by the Library as well as those useful ones that are free on the Internet, URL—<http://www.cityu.edu.hk/lib/collect/law/subjres/law.htm>.

To equip law students with the relevant skills to use electronic resources, the Law Collection and Services Section regularly conducts training sessions, please watch out for announcements broadcasted by email or posted in the Law Collection and Services Section.

### What are the frequently used electronic resources for finding Hong Kong law?

The frequently used electronic resources for finding Hong Kong law are listed below.

- Library subscribed databases
  - *HeinOnline* (to search law reviews)
  - *Lexis Advance Hong Kong* (to search law reviews, *HKC*, *Halsbury's Law of HK*, *Annotated Ordinances of HK*, etc.)
  - *Westlaw Asia* (to search law reviews, *HKLRD*, *Hong Kong Civil Procedure*, etc.)
  - *Westlaw Next* (to search law reviews)
- Useful web sites
  - Basic Law <https://www.basiclaw.gov.hk/>
  - *The Government of the HKSAR Gazette* <http://www.gld.gov.hk/egazette/>
  - Historical Laws of Hong Kong <http://oelawhk.lib.hku.hk/exhibits/show/oelawhk/home>
  - *Hong Kong e-Legislation* <https://www.elegislation.gov.hk/>
  - Hong Kong Legal Information Institute (HKLII) <http://www.hklii.org/>
  - Judiciary <https://www.judiciary.hk/>
  - Law Reform Commission of Hong Kong <http://www.hkreform.gov.hk>
  - Legislative Council <http://www.legco.gov.hk/>, including Bills and *Hansard*
  - Treaties and International Agreements <https://www.doj.gov.hk/eng/laws/treaties.html>