

Chapter:	336	District Court Ordinance	Gazette Number	Version Date
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		Long title	E.R. 1 of 2013	25/04/2013
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To establish a court, having limited civil and criminal jurisdiction, to be known as the District Court, and to make provision for the jurisdiction, procedure and practice thereof and for purposes connected with the matters aforesaid.

(Amended 28 of 2000 s. 2)

[18 February 1953] *G.N.A. 28 of 1953*

(Originally 1 of 1953; 22 of 1962)

(*Format changes—E.R. 1 of 2013)

Note:

* The format of the whole Ordinance has been updated to the current legislative styles.

Part:	1	Preliminary	E.R. 1 of 2013	25/04/2013
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Section:	1	Short title	E.R. 1 of 2013	25/04/2013
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This Ordinance may be cited as the District Court Ordinance.

Section:	2	Interpretation	E.R. 1 of 2013	25/04/2013
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In this Ordinance, unless the context otherwise requires-

action (訴訟) means a civil proceeding commenced by writ of summons or in such manner as may be prescribed; (Amended 21 of 1962 s. 2)

authorized institution (認可機構) means an authorized institution within the meaning of section 2 of the Banking Ordinance (Cap 155); (Added 28 of 2000 s. 3)

cause (訟案) means any action, suit or other original proceeding between a plaintiff and a defendant;

charging order (押記令) means an order under section 52A(1) to secure payment of a judgment or an order for the payment of money; (Added 28 of 2000 s. 3)

Court (區域法院) means the District Court established by section 3; (Added 21 of 1962 s. 2. Amended 28 of 2000 s. 48)

defendant (被告人) includes any person served with any writ of summons or process, or served with notice of, or entitled to attend, any proceedings;

deputy District Judge (地方法院暫委法官) means a deputy District Judge appointed under section 7; (Replaced 79 of 1981 s. 11)

functions (職能) includes powers and duties;

hereditament (可繼承產) includes both a corporeal and an incorporeal hereditament; (Added 21 of 1962 s. 2)

judge (法官) means a District Judge or a deputy District Judge; (Replaced 79 of 1981 s. 11)

judgment creditor (判定債權人) means a person in whose favour judgment has been entered or an order made in any court requiring a judgment debtor to pay money to the person; (Added 28 of 2000 s. 3)

judgment debtor (判定債務人) means a person against whom judgment has been entered or an order made in any court requiring him to pay money to another person; (Added 28 of 2000 s. 3)

land (土地) means land of whatever description, any part or section thereof, and tenements and buildings or parts of buildings (whether the division is horizontal, vertical or made in any other way); (Added 14 of 1973 s. 2)

matter (事宜) includes every proceeding in the Court not in a cause;

party (一方) includes every person served with notice of or attending any proceedings, although not named in the

record;

personal injuries (人身傷害) includes any disease or any impairment of a person's physical or mental condition; (Added 28 of 2000 s. 3)

plaintiff (原告人) includes every person asking for any relief (otherwise than by way of counterclaim as a defendant) against any other person by any form of proceeding, whether the proceeding is by action, suit, petition, motion, summons or otherwise;

Registrar (司法常務官) means the Registrar of the Court appointed under section 14 and includes a deputy registrar and assistant registrar appointed under that section; (Added 28 of 2000 s. 3)

Rules Committee (規則委員會) means the District Court Rules Committee established under section 17. (Added 21 of 1962 s. 2)

(1 of 1953 s. 2 incorporated. Amended 28 of 2000 s. 3)

Part:	2	The District Court	E.R. 1 of 2013	25/04/2013
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Section:	3	Establishment of the District Court, and its general jurisdiction	E.R. 1 of 2013	25/04/2013
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- (1) A court known as the District Court is established. (Replaced 28 of 2000 s. 4)
- (2) The Court shall be a court of record and shall have such civil and criminal jurisdiction and powers as are conferred upon it by this Ordinance and by any other enactment for the time being in force. (Amended 21 of 1962 s. 3)
- (3) The jurisdiction and powers conferred by any other enactment for the time being in force shall be subject only to such limitations as such enactment may provide or may have provided. (Added 20 of 1963 s. 3)
(1 of 1953 s. 3 incorporated)

Section:	4	Constitution of the District Court	E.R. 1 of 2013	25/04/2013
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- (1) The Court shall consist of 2 or more judges, to be known as District Judges.
- (2) District Judges shall be appointed by the Chief Executive by instrument under the Public Seal. (Amended 25 of 1998 s. 2)
- (3) Any appointment made under the provisions of subsection (2) may be given effect from a date anterior to that of the instrument by which it is made. (Added 18 of 1958 s. 2. Amended 20 of 1972 s. 24; 28 of 2000 s. 5)
- (4) This section does not authorize the discharge of any judicial functions by any person before the date of the instrument of appointment or before the requirements of section 17 of the Oaths and Declarations Ordinance (Cap 11) have been fulfilled. (Added 28 of 2000 s. 5)
(1 of 1953 s. 4 incorporated)

Section:	5	Professional qualifications of District Judges	E.R. 1 of 2013	25/04/2013
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- (1) No person shall be appointed to be a District Judge under section 4 unless-
 - (a) he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and (Amended 21 of 1962 s. 4; 14 of 1997 s. 3)
 - (b) since becoming so qualified he has for a period of or periods totalling not less than 5 years-
 - (i) practised as a barrister, solicitor or advocate in such a court; or
 - (ia) been the Registrar of the High Court or a senior deputy registrar, deputy registrar or assistant registrar of the High Court, appointed in accordance with section 37 of the High Court Ordinance (Cap 4); or (Added 10 of 2005 s. 144)
 - (ib) been the Registrar or a deputy registrar or assistant registrar appointed in accordance with section 14; or (Added 10 of 2005 s. 144)
 - (ii)-(iv) (Repealed 14 of 1997 s. 3)
 - (v) been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance

- (Cap 227); or
- (va) been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap 504); or (Added 10 of 2005 s. 144)
 - (vb) been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap 338); or (Added 10 of 2005 s. 144)
 - (vc) been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap 25); or (Added 10 of 2005 s. 144)
 - (vi) been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap 87); or
 - (vii) (Repealed 8 of 1993 s. 26)
 - (viii) been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap 91); or (Added 66 of 1976 s. 2. Amended 24 of 1983 s. 7; 39 of 1992 s. 13)
 - (ix) been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap 6); or (Added 39 of 1992 s. 13. Amended 60 of 1992 s. 7; 68 of 1995 s. 18)
 - (x) been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap 412). (Added 60 of 1992 s. 7. Amended 26 of 2012 s. 40)
- (2) For the purpose of calculating such period of 5 years, periods of less than 5 years falling within any of the subparagraphs of paragraph (b) of subsection (1) may be combined. (Amended 38 of 1965 s. 2)
- (3) For the purposes of calculating the period of 5 years under subsection (1), periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap 100) may be taken into account notwithstanding the repeal of that Ordinance. (Added 8 of 1993 s. 26)
- (1 of 1953 s. 5 incorporated. Amended 10 of 2005 s. 144)

Section:	6	Disposal of proceedings	E.R. 1 of 2013	25/04/2013
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- (1) A judge sitting alone shall, subject to section 58 and to the rules, hear and dispose of proceedings in the Court and business arising out of the proceedings. (Replaced 28 of 2000 s. 6)
 - (2) The proceedings in every action or matter subsequent to the hearing or trial, down to and including the final judgment or order, and any application for leave to appeal or for a stay of execution shall, so far as is practicable and convenient, be taken before the judge or Registrar before whom the trial or hearing took place. (Replaced 21 of 1962 s. 5. Amended 28 of 2000 s. 6)
 - (3) The business of the Court shall be heard and disposed of in court unless this Ordinance, the rules of court or another enactment authorizes the matter to be heard and disposed of in chambers. (Replaced 28 of 2000 s. 6)
- (1 of 1953 s. 6 incorporated)

Section:	7	Appointment of deputy District Judges	E.R. 1 of 2013	25/04/2013
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- (1) The Chief Justice may appoint a person who is eligible under section 5 to be appointed as a District Judge to be a deputy District Judge if- (Amended 10 of 2005 s. 145)
 - (a) the office of any District Judge becomes vacant for any reason; or (Amended 10 of 2005 s. 145)
 - (b) he considers that the interests of the administration of justice require that a deputy District Judge should be appointed temporarily.
 - (2) A deputy District Judge shall have and may exercise all the jurisdiction, powers and privileges and perform all the duties of a District Judge. A reference in any law to a deputy District Judge shall be construed accordingly. (Amended 10 of 2005 s. 145)
 - (3) Without restricting the Chief Justice's power under subsection (1), the Chief Justice may appoint a deputy District Judge-
 - (a) for a specified case or class of cases only;
 - (b) for a specified period only.
 - (4) The Chief Justice may terminate the appointment of a deputy District Judge at any time.
- (Replaced 28 of 2000 s. 7)

Section:	8	Power of deputy District Judge in part-heard cases	E.R. 1 of 2013	25/04/2013
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A deputy District Judge may resume the hearing and determine any adjourned proceedings and to deliver judgment even if the period of his appointment as a deputy District Judge has expired or his appointment has been terminated by the Chief Justice.

(Replaced 28 of 2000 s. 7)

Section:	9	Jurisdiction in part-heard cases of magistrates appointed to be judges	E.R. 1 of 2013	25/04/2013
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Where a magistrate is appointed to be a judge he may, notwithstanding such appointment, exercise and discharge all such jurisdiction, powers, authorities and duties as were prior to such appointment vested in him as a magistrate, but in relation only to any proceedings which were duly commenced before him in his capacity as a magistrate prior to such appointment.

(Added 11 of 1970 s. 3)

Section:	10	Jurisdiction in part-heard cases of judges appointed to be High Court Judges or Court of First Instance deputy judges	E.R. 1 of 2013	25/04/2013
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Where a judge is appointed-

- (a) to be a judge of the High Court under section 6(1) of the High Court Ordinance (Cap 4); or
- (b) to be a deputy judge of the Court of First Instance under section 10(1) of the Court of First Instance Ordinance (Cap 4),

he may, notwithstanding such appointment, exercise and discharge all such jurisdiction, powers, authorities and duties as were prior to such appointment vested in him as a judge of the Court, but in relation only to any proceedings which were duly commenced before him in his capacity as such judge prior to such appointment.

(Added 11 of 1970 s. 3. Amended 92 of 1975 s. 58; 49 of 1983 s. 7; 25 of 1998 s. 2)

Section:	11	(Repealed 47 of 1997 s. 10)		30/06/1997
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Section:	11A	Term of office of District Judges	E.R. 1 of 2013	25/04/2013
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- (1) A judge shall vacate his office when he attains the retiring age.
- (2) Notwithstanding the fact that he has attained the retiring age, a person holding the office of a judge may continue in office for so long after attaining the retiring age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.
- (3) Notwithstanding subsection (1), the term of office of a judge who was appointed to be such judge before 1 January 1987 may be extended for a specified period or periods not exceeding 5 years in the aggregate by the Chief Executive acting in accordance with the recommendation of the Judicial Service Commission, and in any such case the judge shall accordingly be regarded as having attained the retiring age at the expiration of the specified period or periods. (Amended 25 of 1998 s. 2)
- (4) A judge may at any time resign his office by notice in writing addressed to the Chief Executive. (Amended 25 of 1998 s. 2)
- (5) In this section-

judge (法官) means a District Judge;

retiring age (退休年齡) means-

- (a) in relation to a judge who was appointed to be such judge before 1 January 1987, the age of 60 years; and
- (b) in relation to a judge who was appointed to be such judge on or after 1 January 1987, the age of 65 years.

(Added 26 of 1997 s. 4)

Section:	12	Distribution and disposal of business of the Court	E.R. 1 of 2013	25/04/2013
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- (1) Subject to any rules made under this Ordinance, the Chief Justice may give such directions as he thinks fit touching the distribution and disposal of the business of the Court.
- (2) Subject to any such rules or directions and to the provisions of subsection (3), a judge shall sit for the disposal of business pending in the Court at such places and times as he may think fit. (Amended 21 of 1962 s. 7)
- (3) Any proceedings may at any time and at any stage thereof, and either with or without application from any of the parties thereto, be transferred in such manner as may be prescribed or as any such direction may authorize, from one judge to another. (Amended 21 of 1962 s. 7)

(1 of 1953 s. 8 incorporated)

Section:	13	Seal of the Court	E.R. 1 of 2013	25/04/2013
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- (1) The Court shall use such seal as the Chief Justice directs.
- (2) All writs, judgments, orders, documents and copies issued by the Court shall be sealed with the seal.
- (3) A writ, judgment, order, document or copy purporting to be sealed with the seal of the Court is admissible in any court on its production without further proof.

(Replaced 28 of 2000 s. 8)

Section:	14	Officers of the Court	E.R. 1 of 2013	25/04/2013
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- (1) The Chief Executive may appoint a registrar of the Court and such number of deputy registrars, assistant registrars, chief judicial clerks and bailiffs as he may think fit; and there may be attached to such court such number of clerks of the Court, clerks, interpreters and other officers as the Chief Executive may consider necessary. (Replaced 28 of 2000 s. 9)
- (2) In addition to any functions, powers and duties which he is by this or any other enactment enabled to exercise or required to discharge, the Registrar, and every deputy registrar, assistant registrar, bailiff, clerk of the Court, clerk, interpreter and other officer appointed or attached to the Court under the provisions of subsection (1) may exercise and discharge the like functions, powers and duties respectively insofar as the same are applicable to the business and proceedings of the Court, as those exercised and discharged by a registrar, deputy registrar, assistant registrar, bailiff, clerk of the Court, clerk, interpreter or other officer attached to the High Court. (Replaced 21 of 1962 s. 9. Amended 38 of 1965 s. 3; 92 of 1975 s. 58)
- (2A) The Registrar shall have and may exercise and discharge such other jurisdiction, powers and duties as may be conferred or imposed on him by or under rules of court or any other law. (Added 28 of 2000 s. 9)
- (2B) The deputy registrars and assistant registrars may be called Masters. (Added 28 of 2000 s. 9)
- (3) Any act which under this or any other enactment is required or authorized to be done by the Registrar may be performed by a deputy registrar or assistant registrar of the Court; and any process of the Court may be executed by any bailiff thereof notwithstanding that it may have been directed personally to some other bailiff. (Amended 21 of 1962 s. 9; 38 of 1965 s. 3)
- (4) It shall be lawful, in relation to the business and proceedings of the Court, for the Registrar of the High Court and every temporary registrar, senior deputy registrar, temporary senior deputy registrar, deputy registrar, temporary deputy registrar, assistant registrar, temporary assistant registrar and bailiff attached to the High Court to exercise any power or discharge any duty which such Registrar, temporary registrar, senior deputy registrar, temporary senior deputy registrar, deputy registrar, temporary deputy registrar, assistant registrar, temporary assistant registrar or bailiff might respectively have exercised or discharged under subsections (2) and (3) if he had been appointed or attached to the Court under subsection (1). (Replaced 28 of 2000 s. 9. Amended 10 of 2005 s. 146)
- (5) In the exercise of his powers and discharge of his duties under this Ordinance, any person to whom this section applies shall be subject to the same liabilities and penalties and have the benefit of the same protection as attach by virtue of the provisions of the High Court Ordinance (Cap 4) to a person exercising or discharging similar powers or duties under that Ordinance. (Amended 21 of 1962 s. 9; 28 of 2000 s. 9)

(Replaced 18 of 1958 s. 3. Amended 25 of 1998 s. 2)

Section:	14AA	Professional qualifications of Registrar, deputy registrars and assistant registrars	E.R. 1 of 2013	25/04/2013
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- (1) A person shall be eligible to be appointed as the Registrar, a deputy registrar or an assistant registrar if-
- he is qualified to practise as a barrister, solicitor or advocate in a court in Hong Kong or any other common law jurisdiction having unlimited jurisdiction either in civil or criminal matters; and
 - since becoming so qualified, he has for a period of or periods totalling not less than 5 years-
 - practised as a barrister, solicitor or advocate in such a court;
 - been a permanent magistrate appointed in accordance with section 5 of the Magistrates Ordinance (Cap 227);
 - been a coroner appointed in accordance with section 3 of the Coroners Ordinance (Cap 504);
 - been an adjudicator appointed in accordance with section 4 of the Small Claims Tribunal Ordinance (Cap 338);
 - been a presiding officer appointed in accordance with section 4 of the Labour Tribunal Ordinance (Cap 25);
 - been a legal officer as defined in section 2 of the Legal Officers Ordinance (Cap 87);
 - been the Director of Legal Aid or a Deputy Director of Legal Aid, Assistant Director of Legal Aid or Legal Aid Officer, appointed in accordance with section 3 of the Legal Aid Ordinance (Cap 91);
 - been the Official Receiver or an Assistant Official Receiver (Legal), Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 75 of the Bankruptcy Ordinance (Cap 6); or
 - been the Director of Intellectual Property or a Deputy Director of Intellectual Property, Assistant Director of Intellectual Property, Assistant Principal Solicitor, Senior Solicitor or Solicitor, appointed in accordance with section 3 of the Director of Intellectual Property (Establishment) Ordinance (Cap 412). (Amended 26 of 2012 s. 41)
- (2) For the purposes of calculating the period of 5 years referred to in subsection (1)(b)-
- periods of less than 5 years falling within any of the subparagraphs of that subsection may be combined;
 - periods served in an office specified in Part I of the First Schedule to the repealed Registrar General (Establishment) Ordinance (Cap 100) may be taken into account notwithstanding the repeal of that Ordinance.

(Added 10 of 2005 s. 147)

Section:	14AB	Appointment of temporary registrar	E.R. 1 of 2013	25/04/2013
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- (1) The Chief Justice may appoint a person who is eligible under section 14AA to be appointed as the Registrar to be a temporary registrar if-
- the office of the Registrar becomes vacant for any reason; or
 - he considers that the interest of the administration of justice requires that a temporary registrar should be appointed.
- (2) Without prejudice to the generality of the power conferred on him by subsection (1), the Chief Justice may appoint a temporary registrar for a specified period only.
- (3) The Chief Justice may terminate the appointment of a temporary registrar at any time.
- (4) In this section and section 14C, **temporary registrar** (暫委司法常務官) means a person appointed under subsection (1) to be a temporary registrar.

(Added 10 of 2005 s. 147)

Section:	14A	Appointment of temporary deputy registrars	E.R. 1 of 2013	25/04/2013
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- (1) The Chief Justice may appoint a person who is eligible under section 14AA to be appointed as a deputy registrar to be a temporary deputy registrar if- (Amended 10 of 2005 s. 148)
- the office of any deputy registrar becomes vacant for any reason; or
 - he considers that the interest of the administration of justice requires that a temporary deputy registrar should be appointed.
- (2) Without prejudice to the generality of the power conferred on him by subsection (1), the Chief Justice may

appoint a temporary deputy registrar for a specified period only.

- (3) A temporary deputy registrar shall, during the period for which he is appointed, have all the jurisdiction, powers and privileges, and discharge all the duties of a deputy registrar and any reference in any law to a deputy registrar shall be construed accordingly.
- (4) The Chief Justice may terminate the appointment of a temporary deputy registrar at any time.
- (5) A temporary deputy registrar may be called Master.
- (6) In this section and section 14C, **temporary deputy registrar** (暫委副司法常務官) means a person appointed under subsection (1) to be a temporary deputy registrar.

(Added 28 of 2000 s. 10)

Section:	14B	Appointment of temporary assistant registrars	E.R. 1 of 2013	25/04/2013
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- (1) The Chief Justice may appoint a person who is eligible under section 14AA to be appointed as an assistant registrar to be a temporary assistant registrar if- (Amended 10 of 2005 s. 149)
 - (a) the office of any assistant registrar becomes vacant for any reason; or
 - (b) he considers that the interest of the administration of justice requires that a temporary assistant registrar should be appointed.
- (2) Without prejudice to the generality of the power conferred on him by subsection (1), the Chief Justice may appoint a temporary assistant registrar for a specified period only.
- (3) A temporary assistant registrar shall, during the period for which he is appointed, have all the jurisdiction, powers and privileges, and discharge all the duties of an assistant registrar and any reference in any law to an assistant registrar shall be construed accordingly.
- (4) The Chief Justice may terminate the appointment of a temporary assistant registrar at any time.
- (5) A temporary assistant registrar may be called Master.
- (6) In this section and section 14C, **temporary assistant registrar** (暫委助理司法常務官) means a person appointed under subsection (1) to be a temporary assistant registrar.

(Added 28 of 2000 s. 10)

Section:	14C	Powers of temporary registrar, etc. in case which is part-heard on termination of appointment	E.R. 1 of 2013	25/04/2013
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- (1) If the hearing of any proceedings before a temporary registrar is adjourned or if he reserves judgment in any proceedings, the temporary registrar shall have power to resume the hearing and determine the proceedings or deliver judgment, notwithstanding that his appointment as a temporary registrar has expired or has been terminated.
- (2) Subsection (1) shall apply to a temporary deputy registrar or temporary assistant registrar as it applies to a temporary registrar.

(Added 28 of 2000 s. 10. Amended 10 of 2005 s. 150)

Section:	15	Right of audience	E.R. 1 of 2013	25/04/2013
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- (1) In any proceedings in the Court, any of the following persons may address the Court, namely-
 - (a) any party to the proceedings;
 - (b) a barrister qualified to practise in the High Court and retained by or on behalf of any party; (Amended 25 of 1998 s. 2)
 - (c) a solicitor qualified to practise in the High Court and acting generally in the proceedings for a party thereto, but not a solicitor retained as an advocate by a solicitor so acting; (Amended 25 of 1998 s. 2)
 - (d) any other person allowed by leave of the Court to appear instead of a party to the proceedings. (Amended 28 of 2000 s. 11)
- (1A) The right of a solicitor to address the Court is not excluded by reason only of the fact that he is in the permanent and exclusive employment of any other solicitor. (Added 28 of 2000 s. 11)
- (2) No person other than a solicitor shall be entitled to have or to recover any fee or reward for appearing or acting on behalf of any other party in any proceedings in the Court. (Amended 28 of 2000 s. 11)
- (2A) The right of a barrister to appear or to act in the Court or of a solicitor to recover costs for the employment of a

barrister to appear or to act is not affected by anything in this Ordinance. (Added 28 of 2000 s. 11)

(3) (Repealed 25 of 2008 s. 7)

(Replaced 21 of 1962 s. 10)

Section:	16	Prohibition of proceedings in error	E.R. 1 of 2013	25/04/2013
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No proceedings in error shall be taken upon any proceeding under the provisions of this Ordinance.

(1 of 1953 s. 12 incorporated)

Section:	17	District Court Rules Committee	E.R. 1 of 2013	25/04/2013
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- (1) There shall be a District Court Rules Committee consisting of the Chief Judge, 3 District Judges appointed by the Chief Judge, a barrister nominated by the Hong Kong Bar Association, a solicitor nominated by the Law Society of Hong Kong and the Registrar. (Amended 79 of 1981 s. 11)
- (2) At any meeting of the Rules Committee, 3 members, one of whom is either such a barrister or such a solicitor, shall be a quorum.
- (3) The Rules Committee shall be convened by or at the direction of the Chief Judge.
- (4) The Chairman of the Rules Committee shall be the Chief Judge or, in his absence, the senior District Judge present at the meeting.

(Replaced 21 of 1962 s. 11. Amended 10 of 2005 s. 10)

Part:	3	Provisions Applicable to both Civil and Criminal Proceedings	E.R. 1 of 2013	25/04/2013
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Section:	18	Transfer of unclaimed moneys in Court	E.R. 1 of 2013	25/04/2013
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- (1) When any sum of money remains unclaimed in the Court for a period of 5 years, the Chief Justice may, on application by the Registrar of the High Court, order such sum to be transferred to the general revenue of the Government. (Amended 25 of 1998 s. 2)
- (2) Before making any order under subsection (1) the Chief Justice may direct that such notice, if any, as he thinks necessary shall be given and to such parties as he may think fit.

(Added 71 of 1971 s. 3)

Section:	19	(Repealed 59 of 1981 s. 4)		30/06/1997
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Section:	20	Committal for contempt	E.R. 1 of 2013	25/04/2013
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If any person-

- (a) wilfully insults a judge or a witness or any officer of the Court during his sitting or attendance in court, or in going to or returning from the Court; or
- (b) wilfully interrupts the proceedings of the Court or commits contempt of the Court or otherwise misbehaves in court,

any officer of the Court, with or without the assistance of any other person may, by order of the judge, take the offender into custody and detain him until the rising of the Court and the judge may if he thinks fit-

- (i) by a warrant under his hand commit the offender to prison for a specified period not exceeding 2 years; or (Amended 25 of 1972 s. 2)
- (ii) impose upon the offender a fine for every such offence. (Amended 28 of 2000 s. 12)

(Replaced 21 of 1962 s. 12. Amended 59 of 1981 s. 4)

Section:	21	(Repealed 13 of 1995 s. 46)		30/06/1997
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Section:	22	Enforcement of liability for fees	E.R. 1 of 2013	25/04/2013
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In default of the payment of any fees which have been prescribed, payment thereof shall be enforced, by order of the Court, in like manner as payment of any debt adjudged by the Court to be paid.

(Replaced 21 of 1962 s. 12)

Section:	23	Enforcement of fines and forfeited recognizances	E.R. 1 of 2013	25/04/2013
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- (1) The Court may enforce a fine imposed, or a recognizance forfeited, by it in the same manner as a judgment for the payment of money.
- (2) The Court shall certify to the Registrar the sum payable if a fine or recognizance is not paid in full when it is due and the Registrar shall enforce the payment of the sum certified as a judgment debt due to the Court.
- (3) In this section, **fine** (罰款) includes a penalty imposed in civil proceedings and payable to the Court.

(Replaced 28 of 2000 s. 13)

Section:	24	Enforcement of orders and warrants for imprisonment	E.R. 1 of 2013	25/04/2013
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Whenever any order or warrant for the committal of any person to prison is made or issued by the Court or a judge, the order or warrant shall be directed to the Registrar who shall thereby be empowered to take the body of the person against whom the order is made on the warrant issued and it shall be the duty-

- (a) of every police officer to assist in the execution of every such order or warrant; and
- (b) of the officer in charge of the prison mentioned in any such order or warrant to receive and keep the person therein mentioned until he is lawfully discharged.

(Replaced 21 of 1962 s. 12)

Section:	25	Registrar to take charge of fees, etc.	E.R. 1 of 2013	25/04/2013
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There shall be paid to the Registrar-

- (a) all fees payable under this Ordinance or under any other enactment, in respect of any proceedings in the Court;
- (b) all forfeitures so imposed; and
- (c) all fines so imposed. (Replaced 28 of 2000 s. 14)

(Added 21 of 1962 s. 12)

Section:	26	(Repealed 28 of 2000 s. 15)	L.N. 247 of 2000	01/09/2000
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Section:	27	Falsely pretending to act under authority of the Court	E.R. 1 of 2013	25/04/2013
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Any person who-

- (a) delivers or causes to be delivered to any other person any paper falsely purporting to be a copy of any summons or other process of the Court, knowing it to be false; or
- (b) acts or professes to act under any false colour or pretence of the process or authority of the Court,

shall be guilty of an offence and shall be liable-

- (i) on summary conviction to a fine at level 6 and to imprisonment for 2 years; or (Amended 28 of 2000 s. 16)
- (ii) on conviction on indictment to imprisonment for 7 years.

(Added 21 of 1962 s. 12)

Section:	28	Falsely representing documents to have been issued from the Court	E.R. 1 of 2013	25/04/2013
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Without prejudice to the provisions of section 27 any person who knowingly delivers or causes to be delivered to any person any document which not having been issued under the authority of the Court has, by reason of its form or contents or both, the appearance of having been issued under such authority shall be guilty of an offence and shall be

liable on summary conviction to a fine at level 5 and to imprisonment for 12 months.

(Replaced 21 of 1962 s. 12. Amended L.N. 446 of 1994; L.N. 307 of 1998; 28 of 2000 s. 17)

Section:	29	Rescuing goods	E.R. 1 of 2013	25/04/2013
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Any person who rescues or attempts to rescue any goods seized in execution under process of the Court or seized under a distress for rent shall be guilty of an offence and shall be liable-

- (a) on summary conviction to a fine at level 5 and to imprisonment for 12 months; or (Replaced 28 of 2000 s. 18)
- (b) on conviction on indictment to imprisonment for 2 years. (Replaced 28 of 2000 s. 18)
(Added 21 of 1962 s. 12)

Section:	30	Assaulting officers	E.R. 1 of 2013	25/04/2013
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Any person who assaults, resists or obstructs an officer of the Court while in the execution of his duty shall be liable-

- (a) on summary conviction to a fine at level 5 and to imprisonment for 12 months; or (Replaced 28 of 2000 s. 19)
- (b) on conviction on indictment to imprisonment for 2 years. (Replaced 28 of 2000 s. 19)
(Replaced 21 of 1962 s. 12)

Section:	31	Revocation of committal order	E.R. 1 of 2013	25/04/2013
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A judge may at any time revoke an order committing a person to prison under section 20 or 23 and, if he is already in custody, order his discharge.

(Added 21 of 1962 s. 12. Amended 28 of 2000 s. 20)

Part:	4	Civil Jurisdiction and Procedure	E.R. 1 of 2013	25/04/2013
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Section:	32	General jurisdiction in actions of contract, quasi-contract and tort	E.R. 1 of 2013	25/04/2013
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Jurisdiction—General

- (1) The Court has jurisdiction to hear and determine any action founded on contract, quasi-contract or tort where the amount of the plaintiff's claim does not exceed \$1000000.
- (2) In this section and in section 34, the amount of the plaintiff's claim means the amount the plaintiff claims after taking into account-
 - (a) any set-off or any debt or demand the defendant claims or may recover from the plaintiff;
 - (b) any compensation, as defined in section 3 of the Employees' Compensation Ordinance (Cap 282), paid to the plaintiff under that Ordinance; and
 - (c) any contributory negligence, that the plaintiff admits in his statement of claim.
- (3) The Court has jurisdiction to hear and determine any proceedings by way of interpleader in which the amount or value of the matter in dispute does not exceed \$1000000.

(Replaced 28 of 2000 s. 21. Amended L.N. 241 of 2003)

Section:	33	Money recoverable by enactment	E.R. 1 of 2013	25/04/2013
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- (1) The Court has jurisdiction to hear and determine any action for the recovery of any penalty, expenses, contribution or other like demand which is recoverable by virtue of any enactment for the time being in force and for the recovery of any sum which is declared by any enactment to be recoverable as a civil debt if- (Amended 28 of 2000 s. 22)
 - (a) it is not expressly provided by that or any other enactment that the demand shall be recoverable only in

- some other court; and
- (b) the amount claimed in the action does not exceed \$1000000. (Amended 35 of 1966 s. 2; 68 of 1973 s. 2; 79 of 1981 s. 2; L.N. 387 of 1983; 49 of 1988 s. 4; L.N. 241 of 2003)
- (2) For the purposes of this section, **penalty** (罰金) does not include a fine to which any person is liable on conviction on indictment or on summary conviction.
- (22 of 1962 s. 4 incorporated. Amended 28 of 2000 s. 22)

Section:	34	Abandonment of part of claim to give Court jurisdiction	E.R. 1 of 2013	25/04/2013
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- (1) The Court has jurisdiction to hear and determine an action that is in excess of the Court's monetary jurisdiction limit on the plaintiff abandoning the amount of the plaintiff's claim in excess and the action is one in which the Court otherwise has jurisdiction.
- (2) The Court cannot award to the plaintiff in an action under this section an amount exceeding the Court's monetary jurisdiction limit for the action.
- (3) The judgment of the Court in an action limited under this section is in full discharge of all demands in the cause of action.

(Replaced 28 of 2000 s. 23)

Section:	35	Jurisdiction for recovery of land	E.R. 1 of 2013	25/04/2013
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The Court has jurisdiction to hear and determine any action for the recovery of land, where the annual rent or the rateable value of the land, determined in accordance with the Rating Ordinance (Cap 116), or the annual value of the land, whichever is the least, does not exceed \$240000.

(Replaced 28 of 2000 s. 23)

Section:	36	Jurisdiction where title in question	E.R. 1 of 2013	25/04/2013
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The Court has jurisdiction to hear and determine any action which would otherwise be within the jurisdiction of the Court and in which the title to an interest in land comes into question if-

- (a) for an easement or licence, the rateable value, determined in accordance with the Rating Ordinance (Cap 116) or the annual value, whichever is the less, of the land, over which the easement or licence is claimed, does not exceed \$240000; or
- (b) for any other case, the rateable value, determined in accordance with the Rating Ordinance (Cap 116) or the annual value, whichever is the less, of the land, does not exceed \$240000.

(Replaced 28 of 2000 s. 23)

Section:	37	Equity jurisdiction	E.R. 1 of 2013	25/04/2013
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- (1) Subject to the maximum limits in amount or value set out in subsection (2), the Court has the jurisdiction of the Court of First Instance to hear and determine the following proceedings-
- (a) proceedings relating to or for the administration of the estate of a deceased person;
- (b) proceedings for the execution of a trust or for the declaration that a trust subsists or proceedings under section 3 of the Variation of Trusts Ordinance (Cap 253);
- (c) proceedings for the foreclosure or redemption of a mortgage or for enforcing a charge or lien;
- (d) proceedings for the specific performance, or for the rectification, rescission or delivery up or cancellation of an agreement for the sale, purchase or lease of property;
- (e) proceedings for the maintenance or advancement of an infant;
- (f) proceedings for the dissolution or winding up of a partnership, whether or not the existence of the partnership is in dispute;
- (g) proceedings for relief against fraud or mistake.
- (2) The maximum limits in amount or value referred to in subsection (1) for-
- (a) in the case of subsection (1)(a), an estate of a deceased person;
- (b) in the case of subsection (1)(b), an estate or fund subject or alleged to be subject to the trust;
- (c) in the case of subsection (1)(c), the amount owing under the mortgage, charge or lien;

- (d) in the case of subsection (1)(d), for an agreement for sale or purchase, the purchase money or, for an agreement for lease, the value of the property;
 - (e) in the case of subsection (1)(e), the property of the infant;
 - (f) in the case of subsection (1)(f), the assets of the partnership;
 - (g) in the case of subsection (1)(g), the damage sustained or the estate or fund for which relief is sought, are-
 - (i) \$1000000, where the proceedings do not involve or relate to land; (Amended L.N. 241 of 2003)
 - (ii) \$1000000, where the proceedings partly involve or partly relate to land and the part that does not so involve or does not so relate exceeds \$1000000 in amount or value; (Amended L.N. 241 of 2003)
 - (iii) \$3000000, where the proceedings wholly involve or wholly relate to land;
 - (iv) \$3000000, where the proceedings partly involve or partly relate to land and the part that does not so involve or does not so relate does not exceed \$1000000 in amount or value. (Amended L.N. 241 of 2003)
 - (3) A judge has in proceedings authorized by this section in addition to his other powers and authority the powers and authorities of a judge of the Court of First Instance acting in the exercise of the equitable jurisdiction of the Court of First Instance.
 - (4) Nothing in this section gives jurisdiction to the Court in proceedings for the recovery of land or relating to the title to land, where the annual rent or the rateable value of the land, determined in accordance with the Rating Ordinance (Cap 116), or the annual value of the land, whichever is the least, exceeds \$240000.
- (Replaced 28 of 2000 s. 23)

Section:	37A	(Repealed 28 of 2000 s. 23)	L.N. 247 of 2000	01/09/2000
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Section:	38	Jurisdiction under the Married Persons Status Ordinance	E.R. 1 of 2013	25/04/2013
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(Heading repealed 28 of 2000 s. 23)

The Court has the jurisdiction and powers of the Court of First Instance conferred by section 6 of the Married Persons Status Ordinance (Cap 182).

(Replaced 28 of 2000 s. 23)

Section:	38A	Execution of instruments by order of the Court	E.R. 1 of 2013	25/04/2013
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- (1) Subsection (2) applies where—
 - (a) the Court has given or made a judgment or order directing a person to—
 - (i) execute any conveyance, contract or other document; or
 - (ii) endorse any negotiable instrument; and
 - (b) that person—
 - (i) neglects or refuses to comply with the judgment or order; or
 - (ii) cannot, after reasonable inquiry, be found.
- (2) The Court may, on such terms and conditions, if any, as may be just, order that the conveyance, contract or other document is to be executed, or that the negotiable instrument is to be endorsed, by such person as the Court may nominate for that purpose.
- (3) A conveyance, contract, document or instrument executed or endorsed in accordance with subsection (2) has the same effect as if it had been executed or endorsed by the person originally directed to execute or endorse it.
- (4) Nothing in this section abridges the powers of the Court to proceed by attachment against any person neglecting or refusing to execute or endorse any such instrument.

(Added 3 of 2008 s. 35)

Section:	39	Counterclaims	E.R. 1 of 2013	25/04/2013
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Expanded Cross Reference:
32, 33, 34, 35, 36, 37

In sections 32 to 37, references to an action or proceeding are to be construed as including references to a counterclaim. <* Note - Exp. X-Ref: Sections 32, 33, 34, 35, 36, 37 *>

(Replaced 28 of 2000 s. 23)

Section:	40	Saving	E.R. 1 of 2013	25/04/2013
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This Part does not affect the provisions of the Small Claims Tribunal Ordinance (Cap 338), the Landlord and Tenant (Consolidation) Ordinance (Cap 7) or the Labour Tribunal Ordinance (Cap 25) or any other Ordinance conferring exclusive jurisdiction on a court or tribunal other than the Court.

(Replaced 28 of 2000 s. 23)

Section:	41	Procedure where proceedings beyond the jurisdiction of the Court are commenced in the Court	E.R. 1 of 2013	25/04/2013
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Transfer of Proceedings and Miscellaneous Provisions as to Jurisdiction

(Added 28 of 2000 s. 23)

- (1) The Court shall, either of its own motion or on the application of any party, order that an action or proceeding be transferred to the Court of First Instance where an action or proceeding commenced in the Court, not being a counterclaim, is outside the jurisdiction of the Court but is within the jurisdiction of the Court of First Instance.
- (2) The Court may, if it thinks fit, instead of ordering that the action or proceeding be transferred, order that it be struck out where, on the application of a defendant, it appears to the Court that the plaintiff or, if more than one, one of the plaintiffs knew or ought to have known that the Court had no jurisdiction.
- (3) If a defendant in an action or proceeding within the jurisdiction of the Court makes a counterclaim which is not within the jurisdiction of the Court but within the jurisdiction of the Court of First Instance, the Court may, either of its own motion or on the application of any party, order-
 - (a) that the whole proceedings be transferred to the Court of First Instance; or
 - (b) that the proceedings on the counterclaim be transferred to the Court of First Instance; and the proceedings on the plaintiff's claim, except for a defence of set-off as to the whole or a part of the subject matter of the counterclaim, be heard and determined by the Court; or
 - (c) where the Court considers the whole proceedings should be heard and determined in the Court, that the matter be reported to the Court of First Instance or a judge thereof.
- (4) On the receipt of a report mentioned in subsection (3)(c), the Court of First Instance or a judge thereof may, as it or he thinks fit, order either-
 - (a) that the whole proceedings be transferred to the Court of First Instance; or
 - (b) that the whole proceedings be heard and determined in the Court; or
 - (c) that the proceedings on the counterclaim be transferred to the Court of First Instance; and the proceedings on the plaintiff's claim, except for a defence of set-off as to the whole or a part of the subject matter of the counterclaim, be heard and determined by the Court.
- (5) Where an order is made under subsection (3)(b) or subsection (4)(c) and judgment on the claim is given for the plaintiff, execution thereon shall, unless the Court of First Instance or a judge thereof at any time otherwise orders, be stayed until the proceedings transferred to the Court of First Instance have been concluded.
- (6) If no report is made under subsection (3)(c), or if on any such report it is ordered that the whole proceedings be heard and determined in the Court, the Court shall have jurisdiction to hear and determine the whole proceedings notwithstanding any enactment to the contrary.

(Replaced 28 of 2000 s. 23)

Section:	42	Transfer of proceedings to the Court of First Instance or the Lands Tribunal	E.R. 1 of 2013	25/04/2013
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The Court may, either of its own motion or on the application of any party, order at any stage the transfer to the Court of First Instance or the Lands Tribunal of all or part of any action or proceedings before it which are within the jurisdiction of the Court of First Instance or the Lands Tribunal, as the case may be.

(Replaced 3 of 2008 s. 45)

Section:	43	Transfer to the Court from the Court of First Instance of proceedings within the jurisdiction of the Court	E.R. 1 of 2013	25/04/2013
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- (1) The Court of First Instance may, either of its own motion or on the application of any party, order the transfer to the Court of all or part of an action or proceeding, other than a counterclaim, which appears to the Court of First Instance likely to be within the jurisdiction of the Court.
- (2) An order may be made under this section at any stage of the proceedings of the motion of the Court of First Instance itself or on the application of any party.
- (3) The Court of First Instance is required to make an order under this section unless it is of the opinion that, by reason of the importance or complexity of any issue arising in the action or proceeding, or for any other reason, the action or proceeding ought to remain in the Court of First Instance.

(Replaced 28 of 2000 s. 23)

Section:	44	Transfer to the Court from the Court of First Instance where the parties consent	E.R. 1 of 2013	25/04/2013
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- (1) The Court of First Instance may, if the parties consent, order the transfer to the Court of all or part of an action or proceeding, including a counterclaim, which is outside the jurisdiction of the Court, but would have been within its jurisdiction except for the monetary limits specified in section 32, 33, 35, 36 or 37.
- (2) An order may be made under this section at any stage of the proceedings.
- (3) Upon a transfer under subsection (1), the Court shall have jurisdiction to hear and determine all or part of an action or proceeding, including a counterclaim, so transferred notwithstanding any enactment to the contrary.

(Replaced 28 of 2000 s. 23)

Section:	44A	Costs in transferred cases, etc.	E.R. 1 of 2013	25/04/2013
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- (1) This section applies to an action or proceeding transferred-
 - (a) from the Court of First Instance to the Court;
 - (b) from the Court to the Court of First Instance; or
 - (c) from a tribunal to the Court.
- (2) The court or tribunal that orders the transfer may make an order for costs prior to the transfer and of the transfer of proceedings.
- (3) The costs of the whole proceedings both before and after the transfer are in the discretion of the court to which the proceedings are transferred subject to any order made by the court or tribunal which ordered the transfer.
- (4) The court to which the proceedings are transferred has power to order costs and order the scales on which the costs of the several parts of the proceedings are to be taxed. The costs of the whole proceedings are to be taxed in the court to which the proceedings are transferred.
- (5) In an action founded on contract, quasi-contract or tort, for the proceedings in the Court of First Instance before the transfer, the Court may, if satisfied that there was sufficient reason for bringing the action in the Court of First Instance and subject to any order of the Court of First Instance, allow costs on the Court of First Instance scale.
- (6) (Repealed 3 of 2008 s. 4)

(Added 28 of 2000 s. 23)

Section:	45	Division of causes of action	E.R. 1 of 2013	25/04/2013
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No cause of action shall be split or divided so as to be made the ground of 2 or more different actions for the purpose of bringing 2 or more actions in the Court.

(22 of 1962 s. 16 incorporated)

Section:	46	Infancy no defence	E.R. 1 of 2013	25/04/2013
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No person shall by reason of his not having attained the full age of 21 years be exempted from liability for any debt, damages or demand arising under an agreement made before the date of commencement* of the Age of Majority

(Related Provisions) Ordinance (Cap 410) where the debt, damages or demand-

- (a) does not exceed the sum of \$60000; or (Added 49 of 1988 s. 4)
 - (b) has been reduced to a sum not exceeding \$60000 by reason of the plaintiff having abandoned the amount in excess of \$60000 in his cause of action. (Added 49 of 1988 s. 4)
- (22 of 1962 s. 17 incorporated. Amended 49 of 1988 s. 4; 32 of 1990 s. 18)

Note:

* **Commencement date: 1 October 1990.**

Section:	47	(Repealed 28 of 2000 s. 24)	L.N. 247 of 2000	01/09/2000
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Section:	47A	Power of the Court to order disclosure, etc. of documents before commencement of proceedings	E.R. 1 of 2013	25/04/2013
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Discovery and Related Procedures

(Added 28 of 2000 s. 24)

- (1) A person who appears to the Court to be likely to be a party to subsequent proceedings may apply to the Court for an order for discovery of documents against a person who is likely to be a party to the proceedings and who has in his possession, custody or power documents directly relevant to an issue arising out of the claim. (Amended 3 of 2008 s. 15)
- (2) The application is to be made in accordance with rules of court.
- (3) The Court may order the person, if it appears to it that the person is likely to have or to have had in his possession, custody or power any directly relevant documents- (Amended 3 of 2008 s. 15)
 - (a) to disclose whether those documents are in his possession, custody or power; and
 - (b) to produce the documents in his possession, custody or power to the applicant or, on the conditions specified in the order-
 - (i) to the applicant's legal advisers;
 - (ii) to the applicant's legal advisers and a medical or other professional adviser of the applicant; or
 - (iii) if the applicant has no legal adviser, to a medical or other professional adviser of the applicant.
- (4) For the purposes of subsections (1) and (3), a document is only to be regarded as directly relevant to an issue arising out of a claim in the anticipated proceedings if-
 - (a) the document would be likely to be relied on in evidence by any party in the proceedings; or
 - (b) the document supports or adversely affects any party's case. (Added 3 of 2008 s. 15)

(Added 28 of 2000 s. 24)

Section:	47B	Extension of powers of the Court to order disclosure of documents, inspection of property, etc.	E.R. 1 of 2013	25/04/2013
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- (1) A party to proceedings in an action, in which a claim is made, may apply to the Court in accordance with rules of court for an order for discovery of documents against a person who is not a party to the proceedings and who is likely to have or to have had in his possession, custody or power documents relevant to an issue arising out of the claim. (Amended 3 of 2008 s. 20)
- (2) The Court may order the person, if it appears to it that the person is likely to have or to have had in his possession, custody or power any relevant documents-
 - (a) to disclose whether those documents are in his possession, custody or power; and
 - (b) to produce the documents in his possession, custody or power to the applicant or, on the conditions specified in the order-
 - (i) to the applicant's legal advisers;
 - (ii) to the applicant's legal advisers and a medical or other professional adviser of the applicant; or
 - (iii) if the applicant has no legal adviser, to a medical or other professional adviser of the applicant.
- (3) A party to proceedings in an action, in which a claim is made, may apply to the Court for an order against a person who is not a party to the proceedings for, and the Court may order- (Amended 3 of 2008 s. 20)
 - (a) the inspection, photographing, preservation, custody and detention of property which is not the property of,

or in the possession of, a party to the proceedings but which is the subject-matter of the proceedings or as to which any question arises in the proceedings;

- (b) the taking of samples of the property mentioned in paragraph (a) and the carrying out of any experiment on or with the property.
- (4) An application under this section is to be made in accordance with rules of court.
- (5) The powers in this section are in addition to the power of the Court to make orders which is exercisable apart from this section.
- (6) In this section, **property** (財產) includes any land, chattel or other physical property of any description.

(Added 28 of 2000 s. 24)

Section:	47C	Provisions supplementary to sections 47A and 47B	E.R. 1 of 2013	25/04/2013
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- (1) The power to make rules of court includes power to make rules of court as to the circumstances in which an order under section 47A or 47B can be made.
- (2) Rules may include the incidental, supplementary and consequential provisions which the Rules Committee may consider necessary or expedient.
- (3) The Court shall award costs of and incidental to the proceedings to the person against whom an order is sought under sections 47A and 47B unless the Court otherwise directs.

(Added 28 of 2000 s. 24)

Section:	47D	Powers of the Court exercisable before commencement of action	E.R. 1 of 2013	25/04/2013
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- (1) A person authorized by the rules may, in proceedings in an action, in which a claim is made, apply to the Court for an order for and the Court may order- (Amended 3 of 2008 s. 16)
 - (a) the inspection, photographing, preservation, custody and detention of property which may become the subject-matter of the proceedings or as to which any question may arise in the proceedings;
 - (b) the taking of samples of the property mentioned in paragraph (a) and the carrying out of any experiment on or with the property.
- (2) An application under this section is to be made in accordance with rules of court.
- (3) Rules may be made to include-
 - (a) the manner in which an application for an order can be made and by whom;
 - (b) the circumstances in which an order can be made; and
 - (c) the incidental, supplementary and consequential provisions which the Rules Committee may consider necessary or expedient.
- (4) In this section, **property** (財產) includes any land, chattel or other physical property of any description.

(Added 28 of 2000 s. 24)

Section:	47E	Application to Government of sections 47A to 47D	E.R. 1 of 2013	25/04/2013
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- (1) Section 47D binds the Government so far as it relates to property (within the meaning of that section) which appears to the Court to be likely to become the subject-matter of subsequent proceedings. (Amended 3 of 2008 s. 21)
- (2) Sections 47A, 47B and 47C bind the Government.
- (3) The Court shall not make an order under section 47A, 47B or 47D if it considers that compliance with an order would be likely to be injurious to the public interest.

(Added 28 of 2000 s. 24)

Section:	48	General ancillary jurisdiction	E.R. 1 of 2013	25/04/2013
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Exercise of Jurisdiction and Ancillary Jurisdiction

- (1) The Court has the same power as the Court of First Instance in any proceedings before it-
 - (a) to grant the relief, redress, or remedy or combination of remedies, either absolute or conditional; and

- (b) subject to section 46, to give effect to every ground of defence or counterclaim, equitable or legal, which ought to be granted or given.
- (2) The Court has to administer law and equity so that, if there is a conflict or variance between the rules of equity and the rules of the common law referring to the same matter, the rules of equity prevail.
 - (3) The Court has to give the same effect as in the past-
 - (a) to equitable estates, titles, rights, relieves, defences and counterclaims, and to equitable duties and liabilities; and
 - (b) subject to paragraph (a), to legal claims and demands and estates, titles, rights, duties, obligations, and liabilities existing by the common law or by any custom or created by an Ordinance.
 - (4) The Court has to exercise its jurisdiction to secure that, as far as possible, all matters in dispute between the parties are completely and finally determined, and multiplicity of legal proceedings on any of those matters is avoided.
 - (5) The Court may stay any proceedings before it, where it thinks fit to do so, either of its own motion or on the application of any person, whether or not a party to the proceedings.

(Replaced 28 of 2000 s. 24)

Section:	48A	Power to award damages as well as, or in substitution for, injunction or specific performance	E.R. 1 of 2013	25/04/2013
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The Court may award damages in addition to or in substitution for an injunction or specific performance where it has jurisdiction to entertain an application for an injunction or specific performance.

(Added 28 of 2000 s. 24)

Section:	48B	Contempt of Court	E.R. 1 of 2013	25/04/2013
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A judge has the powers of a judge of the Court of First Instance to-

- (a) punish for disobedience of a judgment or order of the Court; or
- (b) punish for breach of undertaking; or
- (c) discipline or punish for breach of a duty imposed upon a solicitor by rules of court.

(Added 28 of 2000 s. 24)

Section:	49	Interest on claims for debt and damages	E.R. 1 of 2013	25/04/2013
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- (1) The Court may include simple interest, at the rate the Court thinks fit in a judgment for a debt or damages, on the debt or damages or on a payment made before judgment, for the period between the date when the cause of action arose and-
 - (a) for a sum paid before judgment, the date of the payment; and
 - (b) for the sum for which judgment is given, the date of the judgment.
- (2) Rules of court may provide for the rate of interest and the method of calculation.
- (3) In a judgment given for damages for personal injuries or arising out of the death of a person which exceed \$30000, the Court has, unless the Court is satisfied that there are special reasons to the contrary, to include simple interest at the rate the Court thinks fit on-
 - (a) payment made before judgment, for the period between the date when the cause of action arose and the date of the payment; and
 - (b) any other sum for which judgment is given, for the period between the date when the cause of action arose and the date of the judgment.
- (4) The defendant in proceedings for the recovery of a debt who pays the whole debt to the plaintiff (otherwise than in pursuance of a judgment in the proceedings) is liable to pay the plaintiff interest at the rate the Court thinks fit or rules of court provide on the debt for the period between the date when the cause of action arose and the date of the payment.
- (5) Interest in respect of a debt shall not be awarded under this section for a period during which, for whatever reason, interest on the debt already runs.
- (6) Interest under this section may be calculated at different rates for different periods.
- (7) In determining, for the purposes of section 32, 33, 36 or 37, whether an amount exceeds or is less than the amount specified in those sections, the Court shall not take account of any interest that may be ordered under

this section or of any order for interest made under this section.

(8) This section does not affect the damages recoverable for the dishonour of a bill of exchange.

(9) In this section-

defendant (被告人) means the person from whom the plaintiff seeks the debt or damages;

plaintiff (原告人) means the person seeking the debt or damages.

(Replaced 28 of 2000 s. 24)

Section:	50	Interest on judgments	E.R. 1 of 2013	25/04/2013
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(1) Judgment debts are to carry simple interest-

(a) at the rate the Court orders; or

(b) in the absence of an order, at the rate the Chief Justice determines by order, on the total amount of the judgment debt, or on the part that for the time being remains unpaid, from the date of the judgment until payment.

(2) Interest under this section may be calculated at different rates for different periods.

(Replaced 28 of 2000 s. 24)

Section:	51	(Repealed 28 of 2000 s. 24)	L.N. 247 of 2000	01/09/2000
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Section:	52	Extension of jurisdiction to grant injunctions and to make declarations	E.R. 1 of 2013	25/04/2013
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(1) The Court shall have jurisdiction to grant and to enforce injunctions of whatsoever nature and as the case may require and to make binding declarations of right-

(a) in all matters affecting movable property, including money and choses in actions, where the amount or value thereof does not exceed \$1000000; and (Amended 68 of 1973 s. 2; 79 of 1981 s. 2; L.N. 387 of 1983; 49 of 1988 s. 4; 28 of 2000 s. 25; L.N. 241 of 2003)

(b) with respect to any apprehended distress; and

(c) in all matters affecting immovable property, including any right, licence or easement in, to, through or over any immovable property and any agreement, covenant or condition respecting immovable property, where the annual rent or the rateable value, determined in accordance with the provisions of the Rating Ordinance (Cap 116) or the annual value, whichever is the less, of the property does not exceed \$240000; and (Amended 68 of 1973 s. 3; 79 of 1981 s. 2; L.N. 387 of 1983; 49 of 1988 s. 4; L.N. 145 of 1992; 28 of 2000 s. 25)

(d) in all matters of contract not falling within paragraph (a), (b) or (c) where the amount or value of the subject matter of the contract does not exceed \$1000000, (Amended 68 of 1973 s. 2; 79 of 1981 s. 2; L.N. 387 of 1983; 49 of 1988 s. 4; 28 of 2000 s. 25; L.N. 241 of 2003)

notwithstanding that any claim for damages or for any other relief or remedy which the Court is competent to grant shall be made in the proceedings. (Amended 35 of 1966 s. 4)

(2) Nothing in this section shall-

(a) be deemed to confer admiralty jurisdiction upon the Court; or

(b) prejudicially affect the provisions of section 48; or (Amended 28 of 2000 s. 25)

(c) empower the Court to grant any injunction or to make any declaration in such manner as to affect any process or proceeding of or in the Court of First Instance. (Amended 25 of 1998 s. 2)

(22 of 1962 s. 21 incorporated)

Section:	52A	Power of Court to impose charging order	E.R. 1 of 2013	25/04/2013
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(1) The Court may by order impose a charge for securing the payment of any money due or to become due under a judgment or order of the Court on a judgment debtor's property specified in the order.

(2) In deciding whether to make a charging order the Court has to consider all the circumstances of the case and, in particular, any evidence before it as to-

(a) the personal circumstances of the debtor; and

- (b) whether any other creditor of the debtor would be likely to be unduly prejudiced by the making of the order.
- (3) This section applies to a judgment, order, decree or award however called of any court or arbitrator, including a court of justice outside of Hong Kong or arbitrator outside of Hong Kong, which is or has become enforceable, whether wholly or to a limited extent, as it applies to a judgment or order of the Court.

(Replaced 28 of 2000 s. 26)

Section:	52AA	Property which may be charged	E.R. 1 of 2013	25/04/2013
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- (1) Subject to section 25 (which provides that a writ of execution shall not issue against any partnership property except on a judgment against the firm) of the Partnership Ordinance (Cap 38), a charge may be imposed by a charging order under this Ordinance only on-
- (a) an interest held by the judgment debtor beneficially-
 - (i) in an asset of a kind mentioned in subsection (2); or
 - (ii) under a trust; or
 - (b) an interest held by a person as trustee of a trust (in this paragraph referred to as **the trust**), if the interest is in an asset of a kind mentioned in subsection (2) or is an interest under another trust and-
 - (i) the judgment or order for which a charge is to be imposed was made against the person as trustee of the trust;
 - (ii) the whole beneficial interest under the trust is held by the judgment debtor unencumbered and for his own benefit; or
 - (iii) 2 or more judgment debtors are all liable to the judgment creditor for the same debt and together hold the whole beneficial interest under the trust unencumbered and for their own benefit.
- (2) The assets referred to in subsection (1) are-
- (a) land;
 - (b) securities of any of the following kinds-
 - (i) Government stock;
 - (ii) stock of any body incorporated in Hong Kong;
 - (iii) stock of any body incorporated outside Hong Kong or of any state or territory outside Hong Kong, being stock registered in a register kept in Hong Kong;
 - (iv) units of a unit trust for which a register of the unit holders is kept in Hong Kong;
 - (c) funds in court.
- (3) The Court may extend a charge to any interest, dividend or other distribution payable and any bonus issue in respect of the asset where the charging order is over an interest in an asset other than land.
- (4) In this section-

dividend (股息) includes a distribution for any unit of a unit trust;

stock (證券) includes shares, debentures, loan stocks, funds, bonds, notes, any other securities issued by the body concerned, whether or not constituting a charge on the assets of the body and any rights or options to subscribe for or be allotted any of them;

unit trust (單位信託) means a trust established to provide for persons having funds to invest, facilities for them to participate as beneficiaries under the trust in the profits or income arising from acquiring, holding, managing or disposing of property.

(Added 28 of 2000 s. 26)

Section:	52AB	Provisions supplementary to sections 52A and 52B	E.R. 1 of 2013	25/04/2013
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- (1) A charging order may be made either absolutely or subject to conditions as to notifying the judgment debtor or as to the time when the charge is to become enforceable, or as to other matters.
- (2) The Land Registration Ordinance (Cap 128) applies to charging orders as it applies to other orders or writs issued or made to enforce judgments.
- (3) A charge imposed by a charging order has the same effect and is enforceable in the same courts and in the same manner as an equitable charge created by the judgment debtor by writing under his hand.
- (4) The Court may at any time, on the application of the judgment debtor or of any person interested in any property to which the order relates, make an order discharging or varying the charging order.
- (5) The Land Registrar shall, on the filing with him of a memorial and an office copy of an order under subsection

(4) discharging a charging order registered under the Land Registration Ordinance (Cap 128), enter a discharge of the charging order on the register. The Land Registrar may issue certificates of the entry.

(Added 28 of 2000 s. 26)

Section:	52B	Injunction and receivers	E.R. 1 of 2013	25/04/2013
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- (1) The Court may by order (whether interlocutory or final) grant an injunction or appoint a receiver in any action or proceedings in the Court and within its jurisdiction in which the Court considers it just or convenient so to do.
- (2) The order may be made either unconditionally or on the terms and conditions the Court thinks just.
- (3) The Court may grant an interlocutory injunction restraining a party to any proceedings from removing from the jurisdiction of the Court, or otherwise dealing with, assets located within the jurisdiction whether the party is or is not domiciled, resident or present within the jurisdiction.
- (4) The Court may, on an application made at any time before, at, or after the hearing of an action or proceedings, grant an injunction to prevent any threatened or apprehended waste or trespass whether-
 - (a) the person against whom the injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title; and
 - (b) the estates claimed by both or by either of the parties are legal or equitable.
- (5) The Court may appoint a receiver by way of equitable execution in relation to all legal estates and interests in land. The Court may exercise the power to appoint a receiver-
 - (a) in relation to an estate or interest in land whether or not a charge has been imposed on that land under section 52A to enforce the judgment, order, decree or award in question; and
 - (b) in addition to, and not in derogation of, any power of any court to appoint a receiver in proceedings for enforcing a charge.
- (6) Where an order under section 52A imposing a charge to enforce a judgment, order, decree or award has been registered under section 2 of the Land Registration Ordinance (Cap 128), section 3(2) of that Ordinance does not apply to an order appointing a receiver made either-
 - (a) in proceedings to enforce the charge; or
 - (b) by way of equitable execution of the judgment, order, decree or award or of so much of it as required payment of moneys secured by the charge.

(Replaced 28 of 2000 s. 26)

Section:	52C	Attachment of debts	E.R. 1 of 2013	25/04/2013
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- (1) A sum standing to the credit of a person in a deposit account of an authorized institution is deemed to be a sum due to the person for the purposes of jurisdiction of the Court to attach debts to satisfy judgments or orders for the payment of money.
- (2) Subject to rules of court, the sum in the deposit account of an authorized institution is attachable even if any of the following conditions applicable to the account has not been satisfied-
 - (a) that notice is required before any money is withdrawn;
 - (b) that a personal application must be made before any money is withdrawn;
 - (c) that a deposit book must be produced before any money is withdrawn;
 - (d) that a receipt for money deposited must be produced before any money is withdrawn; or
 - (e) any other condition prescribed by rules of court.

(Replaced 28 of 2000 s. 26)

Section:	52D	No arrest or imprisonment without order	E.R. 1 of 2013	25/04/2013
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- (1) Subject to section 52E, a person shall not be arrested or imprisoned to enforce, secure or pursue a civil claim for the payment of money or damages except under an order of Court; and the Court shall have jurisdiction to make such an order for arrest or imprisonment only to enforce, secure or pursue a judgment for the payment of a specified sum of money.
- (2) An order for imprisonment under subsection (1) shall be for a period not exceeding 3 months.
- (3) The period mentioned in subsection (2) may be amended by resolution of the Legislative Council.
- (4) (a) The Court may, on application, discharge, vary or suspend an order for arrest or imprisonment made under

this section, either absolutely or subject to such conditions as the Court thinks fit.

- (b) The Court may make an order for arrest or imprisonment under this section subject to such conditions as it thinks fit, including conditions as to the time and place of execution of the order and the condition that the judgment debtor be released on the payment of the judgment debt and costs, the provision of security by him or on his behalf or on the surrender of his travel documents.
- (5) This section shall not affect any jurisdiction of the Court to make orders of committal in relation to-
 - (a) contempt of court; or
 - (b) disobedience of a judgment or order of the Court.

(Added 1 of 1984 s. 10)

Section:	52E	Prohibition on debtor leaving Hong Kong	E.R. 1 of 2013	25/04/2013
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- (1) The Court shall have jurisdiction to make an order prohibiting a person from leaving Hong Kong (a prohibition order) to facilitate the enforcement, securing or pursuance of-
 - (a) a judgment against that person for the payment of a specified sum of money;
 - (b) a judgment or order against that person-
 - (i) for the payment of an amount to be assessed; or
 - (ii) requiring him to deliver any property or perform any other act; or
 - (c) a civil claim (other than a judgment)-
 - (i) for the payment of money or damages; or
 - (ii) for the delivery of any property or the performance of any other act.
- (2) The Court shall not make an order under subsection (1)(b) unless it is satisfied that there is probable cause for believing that-
 - (a) the person against whom the order is sought is about to leave Hong Kong; and
 - (b) by reason of paragraph (a), satisfaction of the judgment or order is likely to be obstructed or delayed.
- (3) The Court shall not make an order under subsection (1)(c) unless it is satisfied that there is probable cause for believing that-
 - (a) there is a good cause of action;
 - (b) the person against whom the order is sought-
 - (i) incurred the alleged liability, which is the subject of the claim, in Hong Kong while he was present in Hong Kong; or
 - (ii) carries on business in Hong Kong; or
 - (iii) is ordinarily resident in Hong Kong;
 - (c) that person is about to leave Hong Kong; and
 - (d) by reason of paragraph (c), any judgment that may be given against that person is likely to be obstructed or delayed.
- (4) (a) The Court may, on application, discharge a prohibition order, either absolutely or subject to such conditions as the Court thinks fit.
- (b) The Court may make a prohibition order subject to such conditions as it thinks fit, including the condition that the order shall have no effect if the judgment debtor or person against whom the claim is made satisfies the judgment or the claim or provides such security as the Court may order.
- (5) (a) An order under subsection (1) shall lapse-
 - (i) on the expiry of one month but the Court may, on the application of the judgment creditor or claimant, extend or renew the order for a period which does not exceed, with the initial period of one month and any other period of extension or renewal, 3 months; and
 - (ii) on the service upon the Director of Immigration and the filing with the Registrar of a notice by the judgment creditor or claimant advising that the order is no longer required.
- (b) The judgment creditor or claimant shall serve and file the notice mentioned in paragraph (a)(ii) as soon as reasonably possible after the order is no longer required.
- (6) A copy of an order under subsection (1) and any other order ancillary thereto shall be served on the Director of Immigration, the Commissioner of Police and, if he can be found, the judgment debtor or person against whom the claim is made.
- (7) Where the Court makes an order under subsection (1) prohibiting a person from leaving Hong Kong, any person who, having been served with a copy of the order or otherwise informed of its effect, attempts to leave Hong Kong in contravention of that order may be arrested by any immigration officer, police officer or bailiff.

- (8) (a) A person arrested under subsection (7) shall be brought before the Court before the expiry of the day after the day of arrest and the Court may—
- (i) in the case mentioned in subsection (1)(a), make such order, for the examination or imprisonment of that person, under rules of court, as is appropriate; (Amended 25 of 1998 s. 2; 28 of 2000 s. 27)
 - (ii) in the case of any other person, make an order for the imprisonment of that person until the lapse or discharge of the prohibition order; or
 - (iii) in any case, make an order discharging that person from arrest either absolutely or upon compliance with such conditions as the Court thinks fit.
- (b) Section 71 of the Interpretation and General Clauses Ordinance (Cap 1) shall not apply to this subsection.
- (9) The Director of Immigration shall not be liable for any failure to prevent any person against whom an order is made under this section from leaving Hong Kong.
- (10) The form of order under this section may be set by the Chief Justice. (Amended 25 of 1998 s. 2; 28 of 2000 s. 27)

(Added 1 of 1984 s. 10)

Section:	53	Costs	E.R. 1 of 2013	25/04/2013
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- (1) The costs of and incidental to all proceedings in the Court, including the administration of estates and trusts, are in the discretion of the Court, and the Court has full power to determine by whom and to what extent the costs are to be paid.
- (2) Without prejudice to the generality of subsection (1), the Court may, in accordance with rules of court, make an order awarding costs against a person who is not a party to the relevant proceedings, if the Court is satisfied that it is in the interests of justice to do so. (Replaced 3 of 2008 s. 32)
- (3) In any civil proceedings before it, the Court may, in accordance with rules of court, by order disallow, or order the legal representative concerned to meet, the whole or any part of any wasted costs. (Added 3 of 2008 s. 23)
- (4) When determining whether or not to make an order under subsection (3), the Court shall, in addition to all other relevant circumstances, take into account the interest that there be fearless advocacy under the adversarial system of justice. (Added 3 of 2008 s. 23)
- (5) In subsection (3), **wasted costs** (虛耗訟費) means any costs incurred by a party as a result of—
- (a) an improper or unreasonable act or omission; or
 - (b) any undue delay or other misconduct or default,
- on the part of any legal representative, whether personally or through an employee or agent of the legal representative. (Added 3 of 2008 s. 23)
- (6) In this section, **legal representative** (法律代表), in relation to a party to any proceedings, means a counsel or solicitor conducting litigation on behalf of the party. (Added 3 of 2008 s. 23)

(Added 28 of 2000 s. 28)

Section:	53A	Costs-only proceedings	E.R. 1 of 2013	25/04/2013
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- (1) This section applies where—
- (a) the parties to a dispute have agreed on all the issues in dispute, including who is to pay the costs of and incidental to the dispute;
 - (b) the agreement has been made or confirmed in writing;
 - (c) no proceedings relating to the dispute have been commenced; and
 - (d) the parties have failed to agree on the amount of the costs of and incidental to the dispute.
- (2) Subject to any other Ordinance, either party to the agreement may commence proceedings for an order for the costs of and incidental to the dispute, in accordance with rules of court.
- (3) In any proceedings commenced under subsection (2) or transferred to the Court under section 52C of the High Court Ordinance (Cap 4), the Court may—
- (a) make an order for the costs of and incidental to the dispute to be taxed or assessed;
 - (b) make an order awarding costs to or against any party to the proceedings; and
 - (c) make an order awarding costs against a person who is not a party to the proceedings, if it is satisfied that it is in the interests of justice to do so.
- (4) A reference to costs in subsection (3)(b) and (c) is a reference to the costs of and incidental to the proceedings

commenced under subsection (2) or transferred to the Court under section 52C of the High Court Ordinance (Cap 4).

- (5) The Court has jurisdiction to make an order under subsection (3) if the amount of the party's claim for those costs does not exceed \$1000000.
- (6) In this section, **Court** (區域法院) includes the Registrar and a master of the Court.

(Added 3 of 2008 s. 5)

Section:	53B	Transfer of costs-only proceedings to Court of First Instance	E.R. 1 of 2013	25/04/2013
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- (1) The Court may, either of its own motion or on the application of any party, order the transfer of proceedings commenced under section 53A(2) to the Court of First Instance.
- (2) An order may be made under this section at any stage of the proceedings.

(Added 3 of 2008 s. 5)

Section:	53C	Scale of costs on which costs awarded under section 53A are taxed	E.R. 1 of 2013	25/04/2013
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- (1) Where the Court has made an award of costs under section 53A(3), it may order that those costs be taxed in accordance with—
 - (a) Schedule 1 and Schedule 2 to Order 62 of the Rules of the District Court (Cap 336 sub. leg. H); or
 - (b) the First Schedule and the Second Schedule to Order 62 of the Rules of the High Court (Cap 4 sub. leg. A).
- (2) Where an award of costs under section 53A(3) is made by the Registrar or a master of the Court, the power of the Court under subsection (1) in relation to those costs may be exercised by the Registrar or that master (as the case may be).

(Added 3 of 2008 s. 5)

Section:	54	(Repealed 28 of 2000 s. 29)	L.N. 247 of 2000	01/09/2000
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Procedure

Section:	55	(Repealed 28 of 2000 s. 29)	L.N. 247 of 2000	01/09/2000
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Section:	56	(Repealed 28 of 2000 s. 29)	L.N. 247 of 2000	01/09/2000
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Section:	57	(Repealed 28 of 2000 s. 29)	L.N. 247 of 2000	01/09/2000
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Section:	58	Assessors	E.R. 1 of 2013	25/04/2013
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Procedure

- (1) In any civil proceedings, the Court may call to its aid not more than 2 assessors specially qualified and may dispose of such proceedings, wholly or in part, with the aid of such assessor or assessors, but the decision of the judge shall be the decision of the Court.
- (2) The Court may determine the remuneration, if any, to be paid to an assessor in respect of his services. (Amended 28 of 2000 s. 30)
- (3) This section does not authorize the payment of remuneration to a person employed full time in any office of emolument of the Government. (Added 28 of 2000 s. 30)

(22 of 1962 s. 34 incorporated)

Section:	59	Examination of witnesses outside the jurisdiction of the Court	E.R. 1 of 2013	25/04/2013
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- (1) The Court of First Instance has the same power to issue a commission, request or order to examine witnesses outside the jurisdiction of the Court for the purpose of proceedings in the Court as it has for the purpose of a cause or matter in the Court of First Instance.
- (2) The Court of First Instance may order that the proceedings be transferred to the Court of First Instance where an application is made to examine witnesses outside the jurisdiction of the Court.

(Replaced 28 of 2000 s. 31)

Section:	60	Oral and written judgments, etc.	E.R. 1 of 2013	25/04/2013
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- (1) The reasons for any judgment or order of the Court may be delivered orally or in writing. (Amended 1 of 1993 s. 3)
- (1A) Where the reasons for any judgment or order are delivered orally, those reasons shall be reduced to writing within 21 days after the hearing or the trial and the reasons so reduced to writing shall be signed by the judge. (Added 1 of 1993 s. 3)
- (2) Every party to the proceedings shall be entitled to a copy of any written judgment or order on payment of such fees as may be prescribed.
- (3) (Repealed 1 of 1993 s. 3)

(22 of 1962 s. 36 incorporated)

Section:	61	(Repealed 28 of 2000 s. 32)	L.N. 247 of 2000	01/09/2000
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Section:	62	Death or absence of judge before conclusion of trial	E.R. 1 of 2013	25/04/2013
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- (1) Where a judge is prevented by death, absence or otherwise howsoever from concluding the trial of any cause, any other judge, with the consent of the parties, may proceed therewith and may give judgment therein and in so doing may act not only upon any further evidence adduced in the proceedings but also upon any evidence already received insofar as it has been recorded.
- (2) For the purposes of this section, the fact that a judge purports to proceed with an unconcluded trial in accordance with the provisions of subsection (1), shall be conclusive evidence that the former judge in such cause is dead, absent or otherwise not available.

(22 of 1962 s. 38 incorporated)

Section:	63	Appeals in civil matters*	E.R. 1 of 2013	25/04/2013
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Appeals

- (1) Subject to subsection (3), an appeal can, with leave of a judge or the Court of Appeal, be made to the Court of Appeal from every judgment, order or decision of a judge in any civil cause or matter.
- (1A) Subject to subsection (1B), an appeal lies as of right to a judge in chambers from a judgment, order or decision of a master in any civil cause or matter. (Added 3 of 2008 s. 28)
- (1B) Where rules of court provide that an appeal from a specified judgment, order or decision of a master lies to the Court of Appeal, the appeal may be made to the Court of Appeal with leave of a master or the Court of Appeal. (Added 3 of 2008 s. 28)
- (2) An appeal is subject to rules of court.
- (3) A person against whom an order is made pursuant to section 20, 29, 48B, 52D, 52E or 53(3) is entitled to appeal to the Court of Appeal without leave.
- (4) In this section, **master** (聆案官) means the Registrar, a deputy registrar or assistant registrar. (Added 3 of 2008 s. 28)

(Replaced 28 of 2000 s. 33. Amended 3 of 2008 s. 28)

Note:

* (Replaced 3 of 2008 s. 28)

Section:	63A	Leave to appeal	E.R. 1 of 2013	25/04/2013
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- (1) Leave to appeal granted under section 63 may be granted—
 - (a) in respect of a particular issue arising out of the judgment, order or decision; and
 - (b) subject to such conditions as the judge, the master or the Court of Appeal hearing the application for leave considers necessary in order to secure the just, expeditious and economical disposal of the appeal.
- (2) Leave to appeal shall not be granted unless the judge, the master or the Court of Appeal hearing the application for leave is satisfied that—
 - (a) the appeal has a reasonable prospect of success; or
 - (b) there is some other reason in the interests of justice why the appeal should be heard.
- (3) In this section, **master** (聆案官) means the Registrar, a deputy registrar or assistant registrar.

(Added 3 of 2008 s. 29)

Section:	63B	Decision on leave to appeal final	E.R. 1 of 2013	25/04/2013
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No appeal lies from a decision of the Court of Appeal as to whether or not leave to appeal to it should be granted.

(Added 3 of 2008 s. 29)

Section:	64	Powers of Court of Appeal on appeal	E.R. 1 of 2013	25/04/2013
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- (1) On any appeal, the Court of Appeal may draw any inference of fact and may—
 - (a) order a new trial on such terms as it thinks just; or
 - (b) order judgment to be entered for any party; or
 - (c) make a final or other order on such terms as it thinks proper to ensure the determination on the merits of the real question in controversy between the parties.
- (2) On any appeal, the Court of Appeal may reverse or vary, in favour of a party seeking to support the judgment or order of the Court in whole or in part, any determinations made in the Court on questions of fact, notwithstanding that the appeal is on a point of law only, or any such determinations on points of law notwithstanding that the appeal is an appeal on a question of fact only.
- (3) On any appeal, the Court of Appeal may receive further evidence in accordance with the provisions of the Rules of the High Court (Cap 4 sub. leg. A). (Amended 103 of 1970 s. 7; 25 of 1998 s. 2)
(22 of 1962 s. 40 incorporated. Amended E.R. 1 of 2013)

Section:	65	Procedure on appeal	E.R. 1 of 2013	25/04/2013
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Subject to the provisions of this Ordinance, every appeal from the Court to the Court of Appeal shall be brought in such manner and shall be subject to such conditions as are prescribed by the Rules of the High Court (Cap 4 sub. leg. A).

(22 of 1962 s. 41 incorporated. Amended 103 of 1970 s. 8; 25 of 1998 s. 2; E.R. 1 of 2013)

Section:	66	Stay of execution on appeal	E.R. 1 of 2013	25/04/2013
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- (1) An application for a stay of execution on an appeal may be made at any time and shall, unless the Court of Appeal otherwise allows, be made in the first instance to a judge of the Court.
- (2) Without prejudice to the powers of the Court of Appeal, a judge, on any such application, may grant a stay of execution on such terms as to costs, payment of money into court, giving security for the prosecution of an appeal or otherwise as he shall think fit.

(22 of 1962 s. 42 incorporated)

Section:	66A	Penalty for neglect of witness summons	E.R. 1 of 2013	25/04/2013
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Miscellaneous

- (1) Any person summoned in manner prescribed as a witness in the Court who-
 - (a) refuses or neglects, without sufficient cause, to appear or to produce any documents required by the summons to be produced; or
 - (b) refuses to be sworn or to give evidence,
 shall forfeit such fine, and serve such term of imprisonment not exceeding 2 years, as the judge may direct. (Amended 28 of 2000 s. 34)
- (1A) The Court cannot punish, under subsection (1)(a), a person summoned as a witness unless he has been paid or has had tendered to him at the time of service of the summons a reasonable sum for expenses, including in prescribed cases, compensation for loss of time. (Added 28 of 2000 s. 34)
- (2) Any person present in court who is required to give evidence but refuses to be sworn or to give evidence shall be punishable as aforesaid.
- (3) A judge may at his discretion direct that the whole or any part of any fine paid under this section shall, after deducting the costs, be applicable towards indemnifying the party injured by the refusal or neglect without prejudice to the right of the party so injured to institute civil proceedings in respect of the injury. (Added 59 of 1981 s. 4)

Section:	66B	Witness expenses	E.R. 1 of 2013	25/04/2013
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In any proceedings in the Court, a judge or the Registrar may order the reimbursement of a witness for any expenses reasonably and properly incurred by the witness.

(Added 28 of 2000 s. 35)

Section:	67	(Repealed 28 of 2000 s. 36)	L.N. 247 of 2000	01/09/2000
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Section:	68	Priority of Court of First Instance and court executions	E.R. 1 of 2013	25/04/2013
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- (1) Where writs have been issued from the Court of First Instance and from the Court or from the Court only, at the suit of different plaintiffs, against the goods of the same person, the right to the goods seized shall be determined by the priority of the time of delivery of the writ to the bailiff to be executed. (Amended 25 of 1998 s. 2)
- (2) The bailiff shall endorse on every such writ the date and time of the same coming to his hands for execution. (22 of 1962 s. 44 incorporated)

Section:	68A	Effect of writs of execution against goods	E.R. 1 of 2013	25/04/2013
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- (1) A writ of fieri facias or other writ of execution against goods issued from the Court binds the property in the goods of the execution debtor from the time when the writ to be executed is delivered to the bailiff.
- (2) A writ of execution does not prejudice the title to any goods of the execution debtor acquired by a person in good faith and for valuable consideration unless the person had, at the time when he acquired his title, notice that the writ or any other writ under which the goods of the execution debtor might be seized or attached had been delivered to and remained unexecuted in the hands of the bailiff.
- (3) The bailiff (without fee) on receipt of any writ of execution must endorse on its back the hour, day, month and year when he received it so that the time mentioned in subsection (1) can be determined.
- (4) In this section and in section 68B-
 - (a) **property** (產權、財產) means the general property in goods, and not merely a special property;
 - (b) **bailiff** (執達主任) includes any officer charged with the enforcement of a writ of execution;
 - (c) any reference to the goods of the execution debtor is deemed a reference to property liable to attachment and sale in execution of a judgment;
 - (d) an act is treated as done in good faith if it is in fact done honestly, whether it is done negligently or not. (Added 28 of 2000 s. 37)

Section:	68B	Sale of property in execution of judgment	E.R. 1 of 2013	25/04/2013
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- (1) The property of the judgment debtor is liable to attachment and sale in execution of a judgment other than-
 - (a) shares in the capital or joint stock of any private company within the meaning of section 29 of the Companies Ordinance (Cap 32);
 - (b) subject to paragraph (c), the tools (if any) of the trade of the judgment debtor; and
 - (c) the necessary wearing apparel and bedding of the judgment debtor and his family dependent on and residing with him, to a value, inclusive of tools and apparel and bedding, not exceeding \$10000.
- (2) Subject to subsection (5), the purchaser of any goods that were seized from an execution debtor by the bailiff charged with the enforcement of a writ of execution and sold by the bailiff without any claim having been made to them acquires a good title to the goods.
- (3) A person is not entitled to recover against the bailiff, or anyone lawfully acting under his authority for any sale of the goods or for paying over the proceeds prior to the receipt of a claim to the goods-
 - (a) except as provided by section 46 of the Bankruptcy Ordinance (Cap 6); or
 - (b) unless it is proved that the person from whom recovery is sought had notice or might by making reasonable inquiry have ascertained that the goods were not the property of the execution debtor.
- (4) This section does not affect the right of any claimant who may prove that at the time of sale he had title to any goods so seized and sold to any remedy to which he may be entitled against any person other than the bailiff or purchaser.
- (5) The Court may, subject to rules of court, set aside the sale of any immovable property in execution of a judgment on the ground of material irregularity in the conduct of the sale.

(Added 28 of 2000 s. 37)

Section:	69	Relief against forfeiture by action for non-payment of rent	E.R. 1 of 2013	25/04/2013
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Remarks:

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.

- (1) Subject to subsection (1A), this section has effect where a lessor is proceeding by action in the Court to enforce against a lessee a right of re-entry or forfeiture of any land for non-payment of rent. (Amended 32 of 2002 s. 40)
- (1A) Where during the term of a lease the application of this section has prevented a lessor from enforcing against a lessee a right mentioned in subsection (1), then during that term this section shall not be applicable again to prevent the lessor from exercising that right against the lessee unless the Court is satisfied that there is good cause why this section should apply in favour of the lessee. (Added 32 of 2002 s. 40)
- (2) The action ceases if the lessee pays into court all the rent in arrear and the costs of the action within the time prescribed by rules of court for acknowledging service of the writ. The lessee holds the land according to the lease without any new lease.
- (3) The Court is to order that the lessor be given possession of the land on the expiry of a period, not being less than 7 days from the date of the order, as the Court thinks fit if the Court at the trial is satisfied that the lessor is entitled to enforce the right of re-entry or forfeiture. (Amended 32 of 2002 s. 40)
- (3A) The Secretary for Development may, by notice published in the Gazette, amend the number of days specified in subsection (3) by substituting another number therefor. (Added 32 of 2002 s. 40. Amended L.N. 130 of 2007)
- (4) An order for possession lapses if the lessee pays into court all the rent in arrear and the sum the Court directs on account of the costs of the action before the date ordered for possession. The lessee holds the land according to the lease without any new lease.
- (5) The Court may extend the period specified in the order for possession at any time before possession of the land is recovered under the order. Subsection (7) does not affect the power of the Court under this subsection.
- (6) An action, order or writ for possession does not lapse on payment into court under this section if the lessor is proceeding in the same action-
 - (a) to enforce a right of re-entry or forfeiture on any other ground as well as for non-payment of rent; or
 - (b) to enforce any other claim as well as the right of re-entry or forfeiture and the claim for arrears of rent.
- (7) The order for possession may be enforced if the lessee does not within the period allowed under the order pay into court all the rent in arrear and the sum directed to be paid on account of the costs of the action. So long as

the order remains unreversed the lessee is barred from all relief.

- (8) The Court is to suspend a writ for the possession of the land for the extended period if the Court extends the period under an order before possession can be taken after that period has expired. If, before the expiry of the extended period, the lessee pays into court all the rent in arrear and the sum directed to be paid on account of the costs of the action, the Court is to cancel the writ.
- (9) This section does not affect-
- (a) the power of the Court to enter final judgment where the defendant fails to give notice of intention to defend;
 - (b) the power of the Court to make any order which it would otherwise have power to make as respects a right of re-entry or forfeiture on any ground other than non-payment of rent; or
 - (c) section 58(4) of the Conveyancing and Property Ordinance (Cap 219).

(Replaced 28 of 2000 s. 38)

Section:	69A	Service of writ in lieu of demand	E.R. 1 of 2013	25/04/2013
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The service of the writ in the action in the prescribed manner in a case where section 69 has effect stands in lieu of a demand and re-entry, if-

- (a) one-half-year's rent is in arrear at the time of the commencement of the action;
- (b) the lessor has a right of re-entry for non-payment of that rent; and
- (c) insufficient distress has been found on the premises to secure the arrears then due.

(Added 28 of 2000 s. 38)

Section:	69B	Relief against forfeiture by re-entry for non-payment of rent	E.R. 1 of 2013	25/04/2013
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- (1) This section has effect where a lessor has enforced against a lessee, by re-entry without action, a right of re-entry or forfeiture as respects any land for non-payment of rent, where the rateable value of the land, determined in accordance with the provisions of the Rating Ordinance (Cap 116), does not exceed \$240000.
- (2) The lessee may, at any time within 6 months from the date on which the lessor re-entered, apply to the Court for relief, and on any such application the Court may grant to the lessee such relief as the Court of First Instance could have granted.

(Added 28 of 2000 s. 38)

Section:	69C	Interpretation and application of this section and sections 69, 69A and 69B	E.R. 1 of 2013	25/04/2013
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- (1) In this section and sections 69, 69A and 69B-

lease (租契) includes-

- (a) an original or derivative under-lease; and
- (b) an agreement for a lease where the lessee has become entitled to have his lease granted;

lessee (承租人) includes-

- (a) an original or derivative under-lessee; and
- (b) the persons deriving title under a lessee;

lessor (出租人) includes-

- (a) an original or derivative under-lessor; and
- (b) the persons deriving title under a lessor;

trial (審訊) includes the hearing of an application for summary judgment;

under-lease (分租租契) includes an agreement for an under-lease where the under-lessee has become entitled to have his under-lease granted;

under-lessee (承轉租人) includes any person deriving title under an under-lessee.

- (2) Section 69 or 69B does not affect the provisions of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap 126).

(Added 28 of 2000 s. 38)

Section:	70	Solicitors	E.R. 1 of 2013	25/04/2013
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A solicitor admitted to practise in the High Court is an officer of the Court and subject to its jurisdiction to the same extent as in the Court of First Instance.

(Replaced 28 of 2000 s. 39)

Section:	71	Protection of judges	E.R. 1 of 2013	25/04/2013
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- (1) No action shall be brought against a judge for any act done by him in the execution of his duty until the act done by him has been quashed on appeal to the Court of Appeal or by the Court.
- (2) No such action shall be brought in respect of any matter within the jurisdiction of the judge unless it is expressly alleged that such act was done maliciously and without reasonable and probable cause and the burden of proof that the act was so done shall rest with the plaintiff in such action.
- (3) In any such action in respect of any matter over which by law the judge had no jurisdiction or in which he exceeded the jurisdiction conferred on him by this Ordinance or by any other enactment, it shall be a good defence that the act complained of was not done maliciously and without reasonable or probable cause and the burden of proof that the act was not so done shall rest with the judge.
- (4) Save under and in accordance with this section no action shall lie in any civil court against a judge for any act done in a matter over which by law he had no jurisdiction or in which he exceeded the jurisdiction conferred on him by this Ordinance or by any other enactment.

(22 of 1962 s. 47 incorporated)

Section:	71A	Registrar may apply for order	E.R. 1 of 2013	25/04/2013
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The Registrar may, in case of doubt or difficulty, apply summarily to the Court for an order for the direction and guidance of a bailiff, and the Court may make such order in the matter as may seem just and reasonable.

(Added 28 of 2000 s. 40)

Section:	71B	Protection of Registrar	E.R. 1 of 2013	25/04/2013
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- (1) No action shall be brought against the Registrar for-
 - (a) any act done or omitted to be done by any bailiff without directions from the Registrar; or
 - (b) any direction given to any bailiff with regard to the execution or non-execution of process if-
 - (i) such directions are in accordance with an order from the Court under section 71A; and
 - (ii) no material fact is wilfully misrepresented or suppressed by the Registrar.
- (2) In this section, **Registrar** (司法常務官) includes a Master.

(Added 28 of 2000 s. 40)

Section:	72	Rules of court	E.R. 1 of 2013	25/04/2013
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- (1) The Rules Committee may make rules of court regulating and prescribing-
 - (a) the procedure, including the method of pleading in the Court;
 - (b) the practice to be followed in the Court;
 - (c) the procedure and practice to be followed in the Registry of the Court; and
 - (d) any matters incidental to the procedure or practice.
- (2) Without limiting the general nature of subsection (1), rules of court may be made for the following purposes-
 - (a) prescribing the procedure for the transfer of proceedings between the Court and the Court of First Instance, and between the Court and the Lands Tribunal; (Amended 3 of 2008 s. 46)
 - (b) prescribing the jurisdiction of the Court which the Registrar may exercise (including provision for appeal against decisions made in the exercise of the jurisdiction);
 - (c) regulating matters relating to the fees and costs of proceedings (including proceedings in connection with the administration of estates and trusts) in the Court and matters incidental to the proceedings;
 - (d) prescribing in what cases absent persons having an interest in a cause or matter are bound by any order

- made;
- (e) regulating the execution of the process of the Court, including-
 - (i) prohibiting judgment debtors and persons against whom civil claims are made from leaving Hong Kong and ordering the payment of compensation to them in prescribed circumstances;
 - (ii) ordering judgment debtors or officers of corporate judgment debtors to appear for examination and their examination; and
 - (iii) the arrest and imprisonment of judgment debtors;
 - (f) providing that, in any case where a document filed in, or in the custody of, the Registry of the Court is required to be produced to any court or tribunal (including an umpire or arbitrator) sitting elsewhere than at the Court-
 - (i) it shall not be necessary for any officer, whether served with a subpoena in that behalf or not, to attend for the purpose of producing the document; but
 - (ii) the document may be produced to the court or tribunal by sending it to the court or tribunal, in the manner prescribed in the rule, together with a certificate, in the form so prescribed, to the effect that the document has been filed in, or is in the custody of, the Registry, and any such certificate shall be prima facie evidence of the facts stated in it.
 - (3) The power to make rules of court under this section includes power to make rules as to proceedings by or against the Government.
 - (4) Rules of court made under this section apply to all proceedings by or against the Government insofar as they expressly purport so to do.
 - (5) In the exercise of his discretion, a judge may excuse a party from compliance with any rule.
- (Replaced 28 of 2000 s. 41)

Section:	72A	Rules for commencing proceedings for estates of deceased persons	E.R. 1 of 2013	25/04/2013
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The Rules Committee may make rules of court for-

- (a) proceedings to be commenced against the estate of a deceased person where a grant of probate or administration has not been made by the appointment of a person to represent the estate or otherwise;
- (b) proceedings purporting to have been commenced by or against a dead person to be treated as having been commenced by or against his estate whether or not a grant of probate or administration was made before their commencement; and
- (c) any proceedings commenced or treated as commenced in the Court by or against the estate of a deceased person to be maintained (whether by substitution of parties, amendment or otherwise) by or against, as the case may be, a person appointed to represent the estate or, if a grant of probate or administration is or has been made, by or against the personal representatives.

(Added 28 of 2000 s. 41)

Section:	72B	Rules as to proof of facts and admission of statements in civil proceedings	E.R. 1 of 2013	25/04/2013
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- (1) The Rules Committee may make rules of court for-
 - (a) the means by which particular facts may be proved;
 - (b) the mode in which evidence of the facts may be given;
 - (c) the conditions subject to which oral expert evidence may be given.
- (2) The Court may act on a certificate purporting to be a certificate of a registered medical practitioner in deciding for the purposes of any rules made under this section whether or not a person is fit to attend as a witness.
- (3) Notwithstanding any enactment or rule of law under which documents prepared for the purpose of pending or contemplated civil proceedings or in connection with the obtaining or giving of legal advice are in certain circumstances privileged from disclosure, rules made under this section may-
 - (a) enable the Court in civil proceedings to direct a party to disclose the expert evidence which he proposes to bring as part of his case at the trial to the other parties by the date specified in the direction (or a later date permitted or agreed under the rules); and
 - (b) prohibit a party who fails to comply with a direction under rules made under paragraph (a) from bringing in evidence under Part IV of the Evidence Ordinance (Cap 8) any expert report that deals with matters

specified in the direction except with the leave of the Court.

- (4) Without prejudice to the general nature of subsection (1)(c), rules made under that paragraph may prohibit a party who fails to comply with a direction given under rules made under subsection (3)(b) from bringing any oral expert evidence dealing with matters specified in the direction, except with the leave of the Court.
- (5) A rule made under this section may make different provision-
 - (a) for different classes of cases;
 - (b) for expert reports dealing with matters of different classes; and
 - (c) for other different circumstances.
- (6) In this section references to an expert report are references to a written report by a person dealing wholly or mainly with matters on which he is (or would if living be) qualified to give expert evidence.

(Added 28 of 2000 s. 41)

Section:	72C	Rules as to stop orders and notices	E.R. 1 of 2013	25/04/2013
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- (1) In this section-

prescribed securities (訂明的保證物) means securities (including funds in court) of a kind prescribed by rules of court made under this section;

stop notice (停止通知書) means a notice requiring any person on whom it is served to refrain from taking any of the steps mentioned in subsection (4) in respect of any of the securities specified in the notice, without first notifying the person by whom, or on whose behalf, the notice was served;

stop order (停止令) means an order of the Court prohibiting the taking of any of the steps mentioned in subsection (4) in respect of any of the securities specified in the order.

- (2) The Rules Committee may make rules of court for-
 - (a) the Court to make a stop order on the application of a person claiming to be entitled to an interest in prescribed securities; and
 - (b) the service of a stop notice by a person claiming to be entitled to an interest in prescribed securities.
- (3) Rules of court made under this section are to prescribe the person on whom a copy of a stop order or stop notice is to be served.
- (4) The steps mentioned in subsection (1) are-
 - (a) the registration of a transfer of the securities;
 - (b) for funds in court, the transfer, delivery out, payment or other dealings with the funds, or of the income on the funds;
 - (c) the payment of a dividend, interest or otherwise for the securities; and
 - (d) for a unit trust, an acquisition of or other dealings with the units by a person or body exercising functions under the trust.
- (5) Rules made under this section may include incidental, supplementary and consequential provisions that the Rules Committee considers expedient, and may make different provision for different cases or classes of cases.

(Added 28 of 2000 s. 41)

Section:	72CA	Rules as to costs and interest	E.R. 1 of 2013	25/04/2013
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- (1) Notwithstanding sections 50 and 53, the Rules Committee may make rules of court for enabling the Registrar, in such circumstances as may be specified in the rules, to—
 - (a) disallow all or part of any costs to be taxed pursuant to a costs order made by the Court;
 - (b) disallow all or part of any interest otherwise payable under section 50 on taxed costs, or reduce the period for which such interest is payable or the rate prescribed in section 50 at which such interest is payable; and
 - (c) increase the rate prescribed in section 50 at which interest on taxed costs or costs of taxation is payable.
- (2) Rules made under this section may include incidental, supplementary and consequential provisions that the Rules Committee considers expedient.
- (3) In this section, **Registrar** (司法常務官) includes a Master.

(Added 3 of 2008 s. 34)

Section:	72D	Orders for interim payment	E.R. 1 of 2013	25/04/2013
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- (1) The Rules Committee may make rules of court for the circumstances in which the Court may order a party to pending proceedings to make an interim payment of the amount specified in the order, either by payment into court or (if the order provides) by paying it to another party to the proceedings.
- (2) The rules made under subsection (1) may enable a party to proceedings who has made an interim payment under an order to recover the whole or part of the amount of the payment in the circumstances, and from the party to the proceedings, determined under the rules.
- (3) Rules made under this section may include incidental, supplementary and consequential provisions that the Rules Committee considers expedient.
- (4) This section does not affect the exercise of any power relating to costs, including any power to make rules of court relating to costs.
- (5) In this section, **interim payment** (中期付款) means a payment on account of any damages, debt or other sum (excluding any costs) which a party may be held liable to pay to or for the benefit of another party to the proceedings if a final judgment or order of the Court in the proceedings is given or made in favour of that other party.
- (6) This section binds the Government so far as any proceedings to which this section is applicable can be brought by or against the Government in accordance with the Crown Proceedings Ordinance (Cap 300).

(Added 28 of 2000 s. 41)

Section:	72E	Orders for provisional damages for personal injuries	E.R. 1 of 2013	25/04/2013
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- (1) This section applies to proceedings in an action in which a claim for personal injuries is made in which there is proved or admitted to be a chance that in the future the injured person will develop some serious disease or suffer some serious deterioration in his physical or mental condition as a result of the act or omission which gave rise to the cause of action.
- (2) The Rules Committee may make rules enabling the Court in giving judgment in a case to which this section applies to award the injured person-
 - (a) damages assessed on the assumption that the injured person will not develop the disease or suffer the deterioration in his condition; and
 - (b) further damages at a future date if he develops the disease or suffers the deterioration.
- (3) Rules made under this section may include incidental, supplementary and consequential provisions that the Rules Committee considers expedient, and may provide for the injured person to elect whether or not to accept an award of damages assessed under the rules.
- (4) This section does not-
 - (a) affect the exercise of any power relating to costs, including any power to make rules of court relating to costs; or
 - (b) prejudice any duty of the Court under any enactment or rule of law to reduce or limit the total damages which would have been recoverable apart from the duty.

(Added 28 of 2000 s. 41)

Section:	73	Suitors' Funds Rules	E.R. 1 of 2013	25/04/2013
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- (1) The Chief Judge may make rules for regulating- (Amended 10 of 2005 s. 18)
 - (a) the deposit, payment, delivery, and transfer in, into, and out of the Court of money, securities, and movable property of suitors;
 - (b) the evidence of such deposit, payment, delivery, or transfer, and the investment of and other dealings with money, securities, and movable property in court;
 - (c) the execution of the orders of the Court; and
 - (d) the powers and duties of the Registrar with reference to such money, securities, and movable property.
- (2) Without prejudice to the general nature of subsection (1), rules made under this section may provide for-
 - (a) regulating the placing on and withdrawal from deposit of money in court, and the payment or crediting of interest on money placed on deposit;
 - (b) determining the smallest amount of money on deposit on which interest is to be credited to an account to

- which money placed on deposit belongs;
- (c) determining the time at which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
 - (d) determining the cases in which money placed on deposit is to begin and to cease to bear interest and the mode of computing such interest;
 - (e) determining the cases in which interest on money placed on deposit and the dividends on any securities standing in the name of the Registrar is or are to be placed on deposit; and
 - (f) disposing of money, other than the balance of an intestate estate, remaining unclaimed in court or money remaining unclaimed in the Bankruptcy Estate Account established under section 128 of the Bankruptcy Ordinance (Cap 6).

(Replaced 28 of 2000 s. 41)

Section:	73A	Amendments of limits of jurisdiction and other amounts	E.R. 1 of 2013	25/04/2013
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The amounts mentioned in sections 32, 33, 35, 36, 37, 49, 52, 68B and 69B may be amended by resolution of the Legislative Council.

(Replaced 28 of 2000 s. 42)

Section:	73B	Rules in relation to jurisdiction under Sex Discrimination Ordinance	E.R. 1 of 2013	25/04/2013
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- (1) The Rules Committee may make rules regulating the practice of the Court in the exercise of its jurisdiction under the Sex Discrimination Ordinance (Cap 480) and the forms of proceedings therein.
- (2) The power to make rules under subsection (1) shall extend to all matters of procedure or practice or matters relating to or concerning the effect or operation in law of any procedure or practice in any case within the cognizance of the Court as to which rules of the High Court have been or might be made for cases within the cognizance of the High Court and shall include power to make rules- (Amended 25 of 1998 s. 2)
 - (a) as to proceedings by or against the Government; (Amended 25 of 1998 s. 2)
 - (b) as to the persons who may appear in, conduct, defend and address the Court in, any proceedings therein;
 - (c) to make special provision for any proceedings in the Court where regulations made under section 89 of the Sex Discrimination Ordinance (Cap 480) apply to the proceedings.
- (3) Each party to any proceedings in the Court in the exercise of its jurisdiction under the Sex Discrimination Ordinance (Cap 480) shall bear its own costs unless the Court otherwise orders on the ground that-
 - (a) the proceedings were brought maliciously or frivolously; or
 - (b) there are special circumstances which warrant an award of costs.
- (4) Without prejudice to the generality of the provisions of subsections (1) and (2), the power to make rules under this section shall extend to-
 - (a) prescribing the place or places which shall be the venue or venues for proceedings to which this section relates;
 - (b) requiring the judge or judges sitting at such venue or venues to give priority, to such extent as may be specified in the rules, to hearing and disposing of proceedings to which this section relates;
 - (c) empowering any such judge, at any stage of any proceedings, of his own motion, to order that any claim which is-
 - (i) beyond the jurisdiction of the Court; and
 - (ii) within the jurisdiction of the tribunal within the meaning of the Labour Tribunal Ordinance (Cap 25), be transferred to that tribunal.
- (5) The Court in the exercise of its jurisdiction under the Sex Discrimination Ordinance (Cap 480) shall not be bound by the rules of evidence and may inform itself on any matter in such manner as it sees fit, with due regard to the rights of the parties to proceedings therein to a fair hearing, the need to determine the substantial merits of the case and the need to achieve a prompt hearing of the matters at issue between the parties.
- (6) Subject to subsection (5), any rule made in accordance with the provisions of this section may be made so as to modify, with respect to proceedings in the Court, any rule of law or practice as to the proof of any matter or as to the reception or admissibility of any matter in evidence.
- (7) No rule made in accordance with the provisions of this section shall apply to any proceedings by or against the Government except in so far as it expressly purports so to do. (Amended 25 of 1998 s. 2)

- (8) It is hereby declared that-
- (a) subject to paragraph (c), this section shall not of itself operate to prevent-
 - (i) the making of any rules-
 - (A) under the provisions of any other section of this Ordinance; and
 - (B) which relate, whether in whole or in part, to the jurisdiction conferred on the Court by virtue of the Sex Discrimination Ordinance (Cap 480);
 - (ii) any rules made under the provisions of any other section of this Ordinance from applying to and in relation to such jurisdiction;
 - (b) where there is any conflict or inconsistency between-
 - (i) any rules made under subsection (2)(b); and
 - (ii) any law and practice regulating the description of persons who may appear in, conduct, defend and address the Court, in any proceedings therein,
 then those rules shall, to the extent of that conflict or inconsistency, as the case may be, prevail over that law and practice;
 - (c) where there is any conflict or inconsistency between any rules made under the provisions of this section and any rules made under the provisions of another section of this Ordinance, then those first-mentioned rules shall, to the extent of that conflict or inconsistency, as the case may be, prevail over those second-mentioned rules.
- (9) For the avoidance of doubt, it is hereby declared that no rule made in accordance with this section shall empower the Court to hear and determine any proceedings involving any claim beyond its jurisdiction.

(Added 67 of 1995 s. 91)

Section:	73C	Rules in relation to jurisdiction under Disability Discrimination Ordinance	E.R. 1 of 2013	25/04/2013
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- (1) The Rules Committee may make rules regulating the practice of the Court in the exercise of its jurisdiction under the Disability Discrimination Ordinance (Cap 487) and the forms of proceedings therein.
- (2) The power to make rules under subsection (1) shall extend to all matters of procedure or practice or matters relating to or concerning the effect or operation in law of any procedure or practice in any case within the cognizance of the Court as to which rules of the High Court have been or might be made for cases within the cognizance of the High Court and shall include power to make rules- (Amended 25 of 1998 s. 2)
 - (a) as to proceedings by or against the Government; (Amended 25 of 1998 s. 2)
 - (b) as to the persons who may appear in, conduct, defend and address the Court in, any proceedings therein;
 - (c) to make special provision for any proceedings in the Court where regulations made under section 86 of the Disability Discrimination Ordinance (Cap 487) apply to the proceedings.
- (3) Each party to any proceedings in the Court in the exercise of its jurisdiction under the Disability Discrimination Ordinance (Cap 487) shall bear its own costs unless the Court otherwise orders on the ground that-
 - (a) the proceedings were brought maliciously or frivolously; or
 - (b) there are special circumstances which warrant an award of costs.
- (4) Without prejudice to the generality of the provisions of subsections (1) and (2), the power to make rules under this section shall extend to-
 - (a) prescribing the place or places which shall be the venue or venues for proceedings to which this section relates;
 - (b) requiring the judge or judges sitting at such venue or venues to give priority, to such extent as may be specified in the rules, to hearing and disposing of proceedings to which this section relates;
 - (c) empowering any such judge, at any stage of any proceedings, of his own motion, to order that any claim which is-
 - (i) beyond the jurisdiction of the Court; and
 - (ii) within the jurisdiction of the tribunal within the meaning of the Labour Tribunal Ordinance (Cap 25), be transferred to that tribunal.
- (5) The Court in the exercise of its jurisdiction under the Disability Discrimination Ordinance (Cap 487) shall not be bound by the rules of evidence and may inform itself on any matter in such manner as it sees fit, with due regard to the rights of the parties to proceedings therein to a fair hearing, the need to determine the substantial merits of the case and the need to achieve a prompt hearing of the matters at issue between the parties.
- (6) Subject to subsection (5), any rule made in accordance with the provisions of this section may be made so as to

modify, with respect to proceedings in the Court, any rule of law or practice as to the proof of any matter or as to the reception or admissibility of any matter in evidence.

- (7) No rule made in accordance with the provisions of this section shall apply to any proceedings by or against the Government except in so far as it expressly purports so to do. (Amended 25 of 1998 s. 2)
- (8) It is hereby declared that-
 - (a) subject to paragraph (c), this section shall not of itself operate to prevent-
 - (i) the making of any rules-
 - (A) under the provisions of any other section of this Ordinance; and
 - (B) which relate, whether in whole or in part, to the jurisdiction conferred on the Court by virtue of the Disability Discrimination Ordinance (Cap 487);
 - (ii) any rules made under the provisions of any other section of this Ordinance from applying to and in relation to such jurisdiction;
 - (b) where there is any conflict or inconsistency between-
 - (i) any rules made under subsection (2)(b); and
 - (ii) any law and practice regulating the description of persons who may appear in, conduct, defend and address the Court, in any proceedings therein,
 then those rules shall, to the extent of that conflict or inconsistency, as the case may be, prevail over that law and practice;
 - (c) where there is any conflict or inconsistency between any rules made under the provisions of this section and any rules made under the provisions of another section of this Ordinance, then those first-mentioned rules shall, to the extent of that conflict or inconsistency, as the case may be, prevail over those second-mentioned rules.
- (9) For the avoidance of doubt, it is hereby declared that no rule made in accordance with this section shall empower the Court to hear and determine any proceedings involving any claim beyond its jurisdiction.

(Added 86 of 1995 s. 88)

Section:	73D	Rules in relation to jurisdiction under Family Status Discrimination Ordinance	E.R. 1 of 2013	25/04/2013
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- (1) The Rules Committee may make rules regulating the practice of the Court in the exercise of its jurisdiction under the Family Status Discrimination Ordinance (Cap 527) and the forms of proceedings therein.
- (2) The power to make rules under subsection (1) shall extend to all matters of procedure or practice or matters relating to or concerning the effect of operation in law of any procedure or practice in any case within the cognizance of the Court as to which rules of the High Court have been or might be made for cases within the cognizance of the High Court and shall include the power to make rules- (Amended 25 of 1998 s. 2)
 - (a) as to proceedings by or against the Government; (Amended 25 of 1998 s. 2)
 - (b) as to the persons who may appear in, conduct, defend and address the Court in, any proceedings therein;
 - (c) to make special provision for any proceedings in the Court where regulations made under section 67 of the Family Status Discrimination Ordinance (Cap 527) apply to the proceedings.
- (3) Each party to any proceedings in the Court in the exercise of its jurisdiction under the Family Status Discrimination Ordinance (Cap 527) shall bear its own costs unless the Court otherwise orders on the ground that-
 - (a) the proceedings were brought maliciously or frivolously; or
 - (b) there are special circumstances which warrant an award of costs.
- (4) Without prejudice to the generality of the provisions of subsections (1) and (2), the power to make rules under this section shall extend to-
 - (a) prescribing the place or places which shall be the venue or venues for proceedings to which this section relates;
 - (b) requiring the judge or judges sitting at such venue or venues to give priority, to such extent as may be specified in the rules, to hearing and disposing of proceedings to which this section relates;
 - (c) empowering any such judge at any stage of any proceedings, of his own motion, to order that any claim which is-
 - (i) beyond the jurisdiction of the Court; and
 - (ii) within the jurisdiction of the tribunal within the meaning of the Labour Tribunal Ordinance (Cap 25), be transferred to that tribunal.

- (5) The Court in the exercise of its jurisdiction under the Family Status Discrimination Ordinance (Cap 527) shall not be bound by the rules of evidence and may inform itself of any matter in such manner as it sees fit, with due regard to the rights of the parties to the proceedings therein to a fair hearing, the need to determine the substantial merits of the case and the need to achieve a prompt hearing of the matters at issue between the parties.
- (6) Subject to subsection (5), any rules made in accordance with the provisions of this section may be made so as to modify, with respect to proceedings in the Court, any rule of law or practice as to the proof of any matter or as to the reception or admissibility of any matter in evidence.
- (7) No rule made in accordance with the provisions of this section shall apply to any proceedings by or against the Government except in so far as it expressly purports so to do. (Amended 25 of 1998 s. 2)
- (8) It is hereby declared that-
 - (a) subject to paragraph (c), this section shall not of itself operate to prevent-
 - (i) the making of any rules-
 - (A) under the provisions of any other section of this Ordinance; and
 - (B) which relate, whether in whole or in part, to the jurisdiction conferred on the Court by virtue of the Family Status Discrimination Ordinance (Cap 527);
 - (ii) any rules made under the provisions of any other section of this Ordinance from applying to and in relation to such jurisdiction;
 - (b) where there is any conflict or inconsistency between-
 - (i) any rules made under subsection (2)(b); and
 - (ii) any law and practice regulating the description of persons who may appear in, conduct, defend and address the Court, in any proceedings therein,
 then those rules shall, to the extent of that conflict or inconsistency, as the case may be, prevail over that law and practice;
 - (c) where there is any conflict or inconsistency between any rules made under the provisions of this section and any rules made under the provisions of another section of this Ordinance, then those first-mentioned rules shall to the extent of that conflict or inconsistency, as the case may be, prevail over those second-mentioned rules.
- (9) For the avoidance of doubt, it is hereby declared that no rule made in accordance with this section shall empower the Court to hear and determine any proceedings involving any claim beyond its jurisdiction.

(Added 91 of 1997 s. 69)

Section:	73E	Rules in relation to jurisdiction under Race Discrimination Ordinance	E.R. 1 of 2013	25/04/2013
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- (1) The Rules Committee may make rules regulating the practice of the Court in the exercise of its jurisdiction under the Race Discrimination Ordinance (Cap 602) and the forms of proceedings therein.
- (2) The power to make rules under subsection (1)-
 - (a) shall extend to-
 - (i) all matters of procedure or practice; and
 - (ii) matters relating to or concerning the effect or operation in law of any procedure or practice in any case within the cognizance of the Court as to which rules of the High Court have been or might be made for cases within the cognizance of the High Court; and
 - (b) shall include the power to make rules-
 - (i) as to proceedings by or against the Government;
 - (ii) as to the persons who may appear in, conduct, defend and address the Court in, any proceedings therein;
 - (iii) to make special provision for any proceedings in the Court where regulations made under section 83 of the Race Discrimination Ordinance (Cap 602) apply to the proceedings.
- (3) Each party to any proceedings in the Court in the exercise of its jurisdiction under the Race Discrimination Ordinance (Cap 602) shall bear its own costs unless the Court otherwise orders on the ground that-
 - (a) the proceedings were brought maliciously or frivolously; or
 - (b) there are special circumstances which warrant an award of costs.
- (4) Without prejudice to the generality of the provisions of subsections (1) and (2), the power to make rules under this section shall extend to-

- (a) prescribing the place or places which shall be the venue or venues for proceedings to which this section relates;
- (b) requiring the judge or judges sitting at such venue or venues to give priority, to such extent as may be specified in the rules, to hearing and disposing of proceedings to which this section relates;
- (c) empowering any such judge at any stage of any proceedings, of his or her own motion, to order that any claim be transferred to the tribunal within the meaning of the Labour Tribunal Ordinance (Cap 25) where the claim is-
 - (i) beyond the jurisdiction of the Court; and
 - (ii) within the jurisdiction of that tribunal.
- (5) The Court in the exercise of its jurisdiction under the Race Discrimination Ordinance (Cap 602)-
 - (a) shall not be bound by the rules of evidence; and
 - (b) may inform itself of any matter in such manner as it sees fit, with due regard to-
 - (i) the rights of the parties to the proceedings therein to a fair hearing;
 - (ii) the need to determine the substantial merits of the case; and
 - (iii) the need to achieve a prompt hearing of the matters at issue between the parties.
- (6) Subject to subsection (5), any rules made in accordance with the provisions of this section may be made so as to modify, with respect to proceedings in the Court, any rule of law or practice as to the proof of any matter or as to the reception or admissibility of any matter in evidence.
- (7) No rule made in accordance with the provisions of this section shall apply to any proceedings by or against the Government except in so far as it expressly purports so to do.
- (8) It is hereby declared that-
 - (a) subject to paragraph (c), this section-
 - (i) shall not of itself operate to prevent the making of any rules-
 - (A) under the provisions of any other section of this Ordinance; and
 - (B) which relate, whether in whole or in part, to the jurisdiction conferred on the Court by virtue of the Race Discrimination Ordinance (Cap 602); and
 - (ii) shall not of itself operate to prevent any rules made under the provisions of any other section of this Ordinance from applying to and in relation to such jurisdiction;
 - (b) where there is any conflict or inconsistency between-
 - (i) any rules made under subsection (2)(b); and
 - (ii) any rule of law and practice regulating the description of persons who may appear in, conduct, defend and address the Court in, any proceedings therein,
 then those rules shall, to the extent of that conflict or inconsistency, as the case may be, prevail over that rule of law and practice;
 - (c) where there is any conflict or inconsistency between any rules made under the provisions of this section and any rules made under the provisions of another section of this Ordinance, then those first-mentioned rules shall to the extent of that conflict or inconsistency, as the case may be, prevail over those second-mentioned rules.
- (9) For the avoidance of doubt, it is hereby declared that no rule made in accordance with this section shall empower the Court to hear and determine any proceedings involving any claim beyond its jurisdiction.

(Added 29 of 2008 s. 88)

Part:	5	Criminal Jurisdiction	E.R. 1 of 2013	25/04/2013
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Section:	73F	Rules in relation to jurisdiction under Personal Data (Privacy) Ordinance	E.R. 1 of 2013	25/04/2013
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- (1) The Rules Committee may make rules regulating the practice of the Court in the exercise of its jurisdiction under section 66 of the Personal Data (Privacy) Ordinance (Cap 486) and the forms of proceedings in the Court.
- (2) The power to make rules under subsection (1)—
 - (a) extends to—
 - (i) all matters of procedure or practice; and
 - (ii) matters relating to or concerning the effect or operation in law of any procedure or practice in any case

within the cognizance of the Court as to which rules of the High Court have been or might be made for cases within the cognizance of the High Court; and

- (b) includes the power to make rules—
 - (i) as to proceedings by or against the Government; and
 - (ii) as to the persons who may appear in, conduct, defend and address the Court in, any proceedings in the Court.
- (3) Each party to any proceedings in the Court in the exercise of its jurisdiction under section 66 of the Personal Data (Privacy) Ordinance (Cap 486) bears its own costs unless the Court otherwise orders on the ground that—
 - (a) the proceedings were brought maliciously or frivolously; or
 - (b) there are special circumstances which warrant an award of costs.
- (4) Without limiting subsections (1) and (2), the power to make rules under this section extends to—
 - (a) prescribing the place or places which are to be the venue or venues for proceedings to which this section relates;
 - (b) requiring the judge or judges sitting at such venue or venues to give priority, to such extent as may be specified in the rules, to hearing and disposing of proceedings to which this section relates.
- (5) The Court in the exercise of its jurisdiction under section 66 of the Personal Data (Privacy) Ordinance (Cap 486) —
 - (a) is not bound by the rules of evidence; and
 - (b) may inform itself on any matter in such manner as it sees fit, with due regard to—
 - (i) the rights of the parties to the proceedings in the Court to a fair hearing;
 - (ii) the need to determine the substantial merits of the case; and
 - (iii) the need to achieve a prompt hearing of the matters at issue between the parties.
- (6) Subject to subsection (5), any rules made in accordance with the provisions of this section may be made so as to modify, with respect to proceedings in the Court, any rule of law or practice as to the proof of any matter or as to the reception or admissibility of any matter in evidence.
- (7) No rule made in accordance with the provisions of this section applies to any proceedings by or against the Government except in so far as it expressly purports so to do.
- (8) It is declared that—
 - (a) subject to paragraph (c), this section—
 - (i) does not of itself operate to prevent the making of any rules—
 - (A) under the provisions of any other section of this Ordinance; and
 - (B) which relate, whether in whole or in part, to the jurisdiction conferred on the Court under the Personal Data (Privacy) Ordinance (Cap 486); and
 - (ii) does not of itself operate to prevent any rules made under the provisions of any other section of this Ordinance from applying to and in relation to such jurisdiction;
 - (b) where there is any conflict or inconsistency between—
 - (i) any rules made under subsection (2)(b); and
 - (ii) any law and practice regulating the description of persons who may appear in, conduct, defend and address the Court, in any proceedings,then those rules, to the extent of that conflict or inconsistency, as the case may be, prevail over that law and practice;
 - (c) where there is any conflict or inconsistency between any rules made under the provisions of this section and any rules made under the provisions of another section of this Ordinance, then those first-mentioned rules, to the extent of that conflict or inconsistency, as the case may be, prevail over those second-mentioned rules.
- (9) To avoid doubt, it is declared that no rule made in accordance with this section may empower the Court to hear and determine any proceedings involving any claim beyond its jurisdiction.

(Added 18 of 2012 s. 43)

Section:	74	Criminal jurisdiction	E.R. 1 of 2013	25/04/2013
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The Court shall have jurisdiction to hear and determine in accordance with the provisions of this Ordinance all such charges as the Secretary for Justice may lawfully prefer under the provisions of section 75 and any such offences as it may deal with pursuant to section 41 of the Labour Tribunal Ordinance (Cap 25).

(1 of 1953 s. 24 incorporated. Amended 21 of 1962 s. 13; 16 of 1972 s. 48; L.N. 362 of 1997)

Section:	75	Procedure upon transfer of charge or complaint	E.R. 1 of 2013	25/04/2013
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- (1) Where a charge or complaint has been transferred to the Court by a magistrate in accordance with the provisions of Part IV of the Magistrates Ordinance (Cap 227), the Court shall have jurisdiction and powers over all proceedings in relation to the offence therein alleged similar to the jurisdiction and powers the Court of First Instance would have had if the accused person had been committed to that court for trial on indictment, save that nothing in this section shall be deemed to give jurisdiction to hear and determine such charge or complaint. (Amended 21 of 1962 s. 13; 16 of 1970 Schedule)
- (1A) Where any proceedings on indictment are transferred to the Court under section 65F of the Criminal Procedure Ordinance (Cap 221), the Court shall have jurisdiction and powers over all proceedings in relation to the offence alleged in the indictment similar to the jurisdiction and powers the Court of First Instance would have had if the proceedings had not been so transferred save that nothing in this section shall be deemed to give jurisdiction to hear and determine such indictment. (Added 59 of 1992 s. 10)
- (2) Where a charge or complaint or proceedings on indictment has or have been transferred under subsection (1) or (1A), the Secretary for Justice shall, unless he enters a nolle prosequi, deliver to the Registrar a charge sheet setting forth the charge or charges preferred against the accused person, and any such charge may allege the commission of any indictable offence not included in any of the categories specified in Part III of the Second Schedule to the Magistrates Ordinance (Cap 227) and any offence triable summarily only, whether or not the offence was included in the order transferring the charge or complaint or proceedings on indictment, as the case may be, to the Court. (Amended 16 of 1970 Schedule; 25 of 1972 s. 3; 59 of 1992 s. 10; L.N. 362 of 1997)
- (3) A charge sheet referred to in subsection (2) shall be delivered, in the case of a transfer of-
 - (a) a charge or complaint, within 14 days; and
 - (b) proceedings on indictment, within 21 days,
 after the date of the order of transfer or such other period as the Court may, in any particular case, allow on any application made on behalf of the Secretary for Justice. (Replaced 59 of 1992 s. 10. Amended L.N. 362 of 1997)
- (4) Where in any proceedings on indictment transferred under section 65F of the Criminal Procedure Ordinance (Cap 221), a charge sheet is not delivered within the period specified in subsection (3)(b) or within such extended period allowed under subsection (3)-
 - (a) on the date appointed under section 65F(5) of the Criminal Procedure Ordinance (Cap 221) for the accused person to appear or be brought before the Court or where that date is adjourned, on such later date, the Court shall, on its own motion; or
 - (b) where, before the appointed date referred to in paragraph (a) or if that date is adjourned, before such later date, the accused person applies to a judge for his discharge on the ground that a charge sheet has not been delivered as required under subsection (3), the judge shall,
 direct that the accused person be discharged in respect of the charges to which the transferred proceedings relate. (Added 59 of 1992 s. 10)
- (5) A discharge under subsection (4) shall be deemed to be an acquittal. (Added 59 of 1992 s. 10)

(1 of 1953 s. 25 incorporated. Amended 25 of 1998 s. 2)

Section:	75A	Notice of alibi	E.R. 1 of 2013	25/04/2013
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- (1) In any criminal proceedings in the Court to hear and determine a charge or complaint which has been transferred in accordance with the provisions of Part IV of the Magistrates Ordinance (Cap 227) or section 65F of the Criminal Procedure Ordinance (Cap 221), the accused person shall not without the leave of the Court adduce evidence in support of an alibi unless, before the end of the prescribed period, he gives notice of particulars of the alibi. (Amended 59 of 1992 s. 11)
- (2) Without prejudice to subsection (1), in any such proceedings the accused person shall not without the leave of the Court call any other person to give evidence in support of an alibi unless-
 - (a) the notice under subsection (1) includes the name and address of the witness or, if the name and address is not known to the accused person at the time he gives the notice, any information in his possession which might be of material assistance in finding the witness;
 - (b) if the name or the address is not included in that notice, the Court is satisfied that the accused person, before giving the notice, took and thereafter continued to take all reasonable steps to secure that the name or

address would be ascertained;

- (c) if the name or the address is not included in that notice, but the accused person subsequently discovers the name or address or receives other information which might be of material assistance in finding the witness, he forthwith gives notice of the name, address or other information, as the case may be;
 - (d) if the accused person is notified by or on behalf of the prosecutor that the witness has not been traced by the name or at the address given, he forthwith gives notice of any such information which is then in his possession or, on subsequently receiving any such information, forthwith gives notice of it.
- (3) The Court shall not refuse leave under this section if it appears to the Court that the accused person was not informed in accordance with the provisions of section 90 of the Magistrates Ordinance (Cap 227) or section 65F of the Criminal Procedure Ordinance (Cap 221) of the requirements of this section. (Amended 59 of 1992 s. 11)
- (4) Any evidence tendered to disprove an alibi may, subject to any directions by the Court as to the time it is to be given, be given before or after evidence is given in support of the alibi.
- (5) Any notice purporting to be given under this section on behalf of the accused person by his solicitor shall, unless the contrary is proved, be deemed to be given with the authority of the accused person.
- (6) A notice under subsection (1) shall either be given in court upon the making of an order of transfer under section 88 of the Magistrates Ordinance (Cap 227) or section 65F of the Criminal Procedure Ordinance (Cap 221), or be given in writing to the prosecutor, and a notice under subsection (2)(c) or (d) shall be given in writing to the prosecutor. (Amended 59 of 1992 s. 11)
- (7) A notice required by this section to be given to the prosecutor may be given by delivering it to the Secretary for Justice or by leaving it at the Secretary for Justice's office, or by sending it by registered post addressed to the Secretary for Justice at his office. (Amended L.N. 362 of 1997)
- (8) In this section-

evidence in support of an alibi (證明不在犯罪現場的證據) means evidence tending to show that by reason of the presence of the accused person at a particular place or in a particular area at a particular time he was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission;

the prescribed period (訂明期間) means the period expiring not less than 10 days prior to the commencement of the trial.

- (9) In computing the prescribed period there shall be disregarded any day which is a general holiday under the General Holidays Ordinance (Cap 149). (Amended 35 of 1998 s. 5)

(Added 6 of 1990 s. 10)

Section:	76	Nolle prosequi	E.R. 1 of 2013	25/04/2013
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- (1) Where a charge or complaint has been transferred as aforesaid, the Secretary for Justice may, at any time before judgment, enter a nolle prosequi by informing the Court orally or in writing that the Government intends that the proceedings shall not continue, and thereupon the accused person shall be discharged in respect of the charge for which the nolle prosequi is entered: (Amended 21 of 1962 s. 13; L.N. 362 of 1997; 25 of 1998 s. 2)
Provided that such discharge shall not operate as a bar to any subsequent proceedings against him on account of the same facts.
- (2) Upon the entry of a nolle prosequi under this section, if the accused person has been committed to prison he shall be released, or if on bail all recognizances in respect of his person shall be discharged, and, where the accused person is not before the Court when such nolle prosequi is entered, the Registrar or other proper officer of the Court shall forthwith cause notice in writing of the entry of such nolle prosequi to be given to the officer in charge of the prison or other place in which the accused person may be detained, and such notice shall be sufficient authority to discharge the accused person or, if the accused be not in custody, shall forthwith cause such notice in writing to be given to the accused person and his sureties. (Amended 21 of 1962 s. 13)
(1 of 1953 s. 26 incorporated)

Section:	77	Signing and form of charge sheet	E.R. 1 of 2013	25/04/2013
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- (1) Every charge sheet shall be signed by a legal officer as defined in the Legal Officers Ordinance (Cap 87) and shall bear date on the day on which it is so signed. (Replaced 24 of 1976 s. 2. Amended 25 of 1998 s. 2; 25 of 2008 s. 8)

- (2) A charge sheet shall be in the form in Schedule 1 with such additions and modifications as may be necessary to adapt it to the circumstances of the particular case.
- (3) Subject to the provisions of this Ordinance, a charge sheet shall not be open to objection in respect to its form or contents, if it is framed in such manner as may be prescribed:
Provided that the Court may direct that further and better particulars of any charge shall be delivered. (Amended 21 of 1962 s. 14)
- (4) Every charge sheet, when so signed and dated as aforesaid, shall be delivered to the Registrar and shall be filed by him in the Court, and a copy thereof shall be served on the accused person in the manner hereinafter provided.
- (5) Nothing in this section or in section 79 or 87 or in any rules made under section 87 shall affect the law or practice relating to the jurisdiction of the Court nor prejudice or diminish in any respect the obligation to establish by evidence according to law any act, omission or intention which is legally necessary to constitute the offence with which the person accused is charged, nor otherwise affect the law of evidence in criminal cases. (Amended 21 of 1962 s. 14)

(1 of 1953 s. 27 incorporated. Amended E.R. 1 of 2013)

Section:	77A	Transfer of proceedings	E.R. 1 of 2013	25/04/2013
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- (1) In any proceedings before the Court where a charge sheet has been delivered under section 75(3)(a) against an accused person, before an opening speech is made by or on behalf of the prosecution or, where no such speech is made, before the first witness is called to give evidence on behalf of the prosecution, the Secretary for Justice may apply to the Court for an order that the proceedings be transferred to the Court of First Instance or before a magistrate to be dealt with summarily. (Amended L.N. 362 of 1997; 25 of 1998 s. 2)
- (2) Any application under subsection (1) shall be made to a judge by way of motion, notice of which shall be supported by an affidavit showing the grounds on which the application is made.
- (3) A copy of the notice of motion and the affidavit shall be served on the accused person not less than 21 days before the date named in the notice for hearing the motion, unless the judge gives leave to the contrary.
- (4) On an application being made under subsection (1), the judge may, subject to subsection (5), and if he considers it fit having regard to the interests of justice, make an order allowing the application (in this section and section 77B referred to as an **order of transfer**) or refuse the application and in either case may make such order as to costs as he considers appropriate.
- (5) Upon making an order of transfer of proceedings to the Court of First Instance, the judge shall inform the accused person that he may elect to have the charge or charges to which the order relates heard at a preliminary inquiry before a magistrate and that if he does not so elect the proceedings shall be transferred for trial to the Court of First Instance without an inquiry; and the accused shall thereupon be asked whether or not he elects to have the charge or charges against him heard at a preliminary inquiry and he may make such an election. (Amended 25 of 1998 s. 2)
- (6) Where the accused does not elect to have the charge or charges heard at a preliminary inquiry the proceedings shall stand transferred to the Court of First Instance for trial. (Amended 25 of 1998 s. 2)
- (7) Where the accused person elects under subsection (5) to have a preliminary inquiry or where an order is made for transfer of proceedings to be dealt with summarily by a magistrate, the judge shall appoint a date on which the accused person shall appear before a magistrate.
- (8) Where under this section proceedings stand transferred to be dealt with summarily, the date appointed under subsection (7) shall not be earlier than 21 days from the date of the order of transfer.
- (9) Where an application is made under subsection (1), the entire proceedings before the Court shall be stayed until the application is disposed of unless the judge otherwise orders in respect of any matter.
- (10) At the time of making an order of transfer, the judge may remand the accused person in custody or on bail as he may consider appropriate.
- (11) Unless the judge otherwise orders in respect of any matter, an order of transfer shall operate to terminate the proceedings before the Court.
- (12) An order of transfer shall not be subject to appeal.
- (13) Where apart from this subsection the Court does not have jurisdiction to hear and determine an application made under subsection (1), this subsection shall confer such jurisdiction.

(Added 59 of 1992 s. 12)

Section:	77B	Procedure following an order of transfer	E.R. 1 of 2013	25/04/2013
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- (1) Within 21 days after an order of transfer is made, a sealed copy of the order of transfer shall be delivered by the Registrar-
 - (a) if the proceedings are transferred for preliminary inquiry or to be dealt with by a magistrate, to the first clerk of the magistracy at which the accused person is required to appear; or
 - (b) if the proceedings are transferred to the Court of First Instance, to the Registrar of the High Court.
- (2) If, when making an order of transfer, the judge commits an accused person to custody, the judge shall inform the accused person of his right to apply to a judge of the Court of First Instance for bail.
- (3) On making an order of transfer of proceedings to the Court of First Instance, the judge shall-
 - (a) inform the accused person, unless he is already in receipt of legal aid, of his right to apply for legal aid;
 - (b) if the accused person elects to have the proceedings transferred directly, say to the accused person-
 "I must warn you that at your trial you may not be permitted to give evidence of an alibi or call witnesses in support of an alibi unless you have earlier given particulars of the alibi and of the witnesses. You may give those particulars now to this court or to the prosecutor not less than 10 days prior to the commencement of your trial.",
 or words to that effect and if it appears to the judge that the accused person may not understand the meaning of the word "alibi", he shall explain it to him; and
 - (c) inform the accused person that he has the right to apply to a judge of the Court of First Instance for discharge on the grounds that there is no prima facie case against him.
- (4) Where the judge has given the warning required by subsection (3)(b), the clerk of the Court shall give the accused person written notice of the provisions of section 65D of the Criminal Procedure Ordinance (Cap 221).
- (5) If the accused person is not present in court on the making of an order of transfer of proceedings to the Court of First Instance the clerk of the Court shall forward to the accused person by registered post notice, in the English and Chinese languages, of the information and warning set out in subsection (3), together with written notice of the provisions of section 65D of the Criminal Procedure Ordinance (Cap 221). (Added 13 of 1995 s. 50)
- (6) The written notices required by subsection (5) shall be sent to the accused person not less than 28 days before the date set for trial. (Added 13 of 1995 s. 50)

(Added 59 of 1992 s. 12. Amended 25 of 1998 s. 2)

Section:	77C	Application may be made in a multi-defendant or multi-charge situation	E.R. 1 of 2013	25/04/2013
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- (1) An application for an order under section 77A(1) may be made in relation to one or more accused persons or one or more charges or complaints in any proceedings.
- (2) Any reference to proceedings in sections 75, 77A (other than in subsection (9) thereof) and 77B shall be construed as being a reference to proceedings as respects the accused person to whom the order referred to in subsection (1) relates or, when appropriate, the charge or complaint to which it relates.

(Added 59 of 1992 s. 12)

Section:	78	Limitation on prosecutions	E.R. 1 of 2013	25/04/2013
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Where by any enactment there is imposed a limit of time within which a prosecution for any offence may be commenced, such limit shall apply in the case of a prosecution for such offence in the Court.

(1 of 1953 s. 28 incorporated. Amended 21 of 1962 s. 13; 16 of 1970 Schedule)

Section:	79	Procedure and practice of the Court in its criminal jurisdiction	E.R. 1 of 2013	25/04/2013
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- (1) Subject to the provisions of this Ordinance and as may be prescribed, the procedure and practice for the time being in force in the Court of First Instance in relation to criminal proceedings therein shall, so far as the same may be applicable, be followed as nearly as may be in criminal proceedings in the Court; and where it is necessary for the purpose of rendering such procedure and practice conveniently applicable, "indictment" and "count" shall be understood to refer to "charge sheet" and "charge" respectively. (Amended 21 of 1962 s. 15; 25

of 1998 s. 2)

- (2) Notwithstanding the provisions of subsection (1), none of the provisions of the Criminal Procedure Ordinance (Cap 221) in Part 1 of Schedule 2 particularized shall be applied to proceedings in the Court. (Amended 21 of 1962 s. 15)
- (3) The special provisions contained in Part 2 of Schedule 2 touching the procedure and practice of the Court in the exercise of its criminal jurisdiction shall be applied to criminal proceedings in the Court where the circumstances of such proceedings require their application. (Amended 21 of 1962 s. 15)
- (4) Where any provision of the Criminal Procedure Ordinance (Cap 221) is applicable to criminal proceedings in the Court, such provision shall be read with such verbal alterations and modifications not affecting its substance as are necessary to render it conveniently applicable; and in particular, and without prejudice to the generality of the aforesaid, any such provision relating to a "jury" or a "verdict of a jury" shall be understood to refer to a judge and the functions of a judge as a judge of fact. (Amended 21 of 1962 s. 15; 63 of 1971 s. 13)
- (5) Nothing in this section shall be taken to authorize-
 - (a) the institution of any criminal proceedings in the Court save in accordance with the express provisions of this Part; or (Amended 21 of 1962 s. 15)
 - (b) trial by jury in any criminal proceedings instituted under the provisions of this Part.
(1 of 1953 s. 29 incorporated. Amended E.R. 1 of 2013)

Section:	79A	Plea by corporation	E.R. 1 of 2013	25/04/2013
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- (1) Where an accused person is a corporation, a plea in writing may be entered by its representative, and if either the corporation does not appear by a representative or, though it does so appear, fails to enter any plea, the Court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty.
- (2) In this section, **representative** (代表) means a person duly appointed by a corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this section authorized to do, but a person shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before any court for any other purpose. A representative for the purposes of this section need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this section shall be admissible without further proof as prima facie evidence that the person has been so appointed.

(Added 24 of 1976 s. 3)

Section:	80	Verdict	E.R. 1 of 2013	25/04/2013
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- (1) The verdict and any sentence shall be delivered orally and be recorded in writing at the time of that delivery.
- (2) The reasons for the verdict and any sentence-
 - (a) shall be delivered orally; and
 - (b) shall be reduced to writing within 21 days after the hearing or the trial, and the reasons so reduced to writing shall be signed by the judge.

(Replaced 1 of 1993 s. 5)

Section:	81	Court may take into consideration outstanding offences on application of accused and consent of prosecution	E.R. 1 of 2013	25/04/2013
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- (1) Where an accused person is convicted of an offence, the Court may, on the application of the person convicted and with the consent of the prosecution, in passing sentence on such person take into consideration any other offence of a similar nature which the convicted person admits having committed and which he desires the Court to deal with.
- (2) Under subsection (1) the Court may take into consideration any indictable offence not included in any of the categories specified in Part III of the Second Schedule to the Magistrates Ordinance (Cap 227) and, notwithstanding the provisions of this or any other Ordinance, any offence triable summarily only.

Section:	82	Penalties	E.R. 1 of 2013	25/04/2013
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- (1) Where the Court sentences any person to undergo a term of imprisonment for an offence, and such person is already undergoing, or is at the same time sentenced to undergo, imprisonment for another offence, it shall be lawful for the Court to direct that such imprisonment shall commence at any time during or at the expiration of the term of imprisonment which such person is then undergoing or has been so previously sentenced to undergo as aforesaid. (Amended 21 of 1962 s. 13; 6 of 1990 s. 11)
- (2) Notwithstanding the provisions of any enactment in force at the commencement of this Ordinance and notwithstanding that proceedings have not been taken by way of indictment, the Court may impose any penalty and make any order provided by law for or in connection with any offence of which it has cognizance: (Amended 21 of 1962 s. 13)
Provided that-
 - (a) no sentence of imprisonment passed by the Court shall exceed 7 years in respect of one offence and where 2 or more consecutive terms of imprisonment are imposed by the Court under subsection (1), the aggregate of the said terms of imprisonment shall not exceed 7 years; and (Amended 21 of 1962 s. 13; 43 of 1973 s. 2)
 - (b) any term of imprisonment imposed in default of payment of a fine shall not exceed 1 year. (Amended 25 of 1972 s. 5)
- (3) Where the Court has authority to impose imprisonment for any offence, and has not authority to impose a fine therefor, the Court may, if it thinks fit, impose a fine in lieu of imprisonment: (Amended 21 of 1962 s. 13)
Provided that-
 - (a) no term of imprisonment imposed in default of payment of a fine shall exceed the term to which the offender would be liable for the offence of which he stands convicted; and (Amended 25 of 1972 s. 5)
 - (b) no such term of imprisonment shall in any event exceed 1 year.
- (4) The Court may, where it imposes a term of imprisonment on a person in default of payment of a fine, order that it shall not begin to run until the expiration of any other term of imprisonment to which that person has been sentenced, and for this purpose the Court may make a direction under subsection (1) notwithstanding that the aggregate of the terms of imprisonment exceeds the maximum period of 7 years which the Court has power to impose under proviso (a) to subsection (2). (Added 25 of 1972 s. 5. Amended 43 of 1973 s. 2)
- (5) Where by any enactment the Court of First Instance is empowered to impose any punishment upon, or to do any other act or thing in relation to, a person who has been convicted on indictment of an offence, the Court shall, subject to the provisions of this section, have like powers in relation to a person convicted of such offence under the provisions of this Part. (Amended 21 of 1962 s. 13; 25 of 1998 s. 2)

(1 of 1953 s. 31 incorporated)

Section:	83	Appeals	E.R. 1 of 2013	25/04/2013
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Sections 80 to 83Y inclusive of the Criminal Procedure Ordinance (Cap 221) shall apply to criminal proceedings in the Court with such verbal alterations and modifications not affecting the substance thereof as may be necessary to render the same conveniently applicable, and, in particular, any reference to "indictment" shall be understood to refer to a charge sheet, and any reference to "jury" shall be understood to refer to a judge as a judge of fact.

(1 of 1953 s. 32 incorporated. Amended 21 of 1962 s. 17; 34 of 1972 s. 22)

Section:	84	Appeal by way of case stated	E.R. 1 of 2013	25/04/2013
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An appeal shall lie at the suit of the Secretary for Justice to the Court of Appeal against a verdict or order of acquittal, which shall include any order quashing or dismissing a charge for any alleged defect therein or want of jurisdiction. Such an appeal shall relate to matters of law only and the following procedure shall apply thereto- (Amended L.N. 362 of 1997)

- (a) within 7 clear days after the reasons for a verdict have been recorded or after the order of acquittal, or within such further period as a judge of the High Court may, whether before or after the expiration of such period, allow, an application may be made in writing to the judge to state a case setting forth the facts and the grounds on which the verdict or order was arrived at or made and the grounds on which the proceeding is questioned for the opinion of the Court of Appeal; and the provisions of sections 106 to 109 inclusive of

the Magistrates Ordinance (Cap 227) shall apply, mutatis mutandis, to the preparation, amendment and setting down of such case stated;

- (b) following such application a judge of the High Court may, on application being made to him in Chambers, issue a warrant addressed to police officers directing that the respondent be arrested and brought before him, and may commit the respondent to prison pending the disposal of the appeal or admit him to bail;
- (c) at the hearing of the appeal, whether or not the respondent appears, the Court of Appeal shall-
 - (i) if it is satisfied that there is no sufficient ground for interfering, dismiss the appeal; or
 - (ii) reverse the verdict or order and direct that the trial be resumed or that the accused be retried as the case may be, or find him guilty, record a conviction and pass such sentence on him as might have been passed on him by a judge; and
 - (iii) give all such necessary and consequential directions as it shall think fit.

(Added 31 of 1962 s. 2. Amended 25 of 1998 s. 2)

Section:	85	Aiders and abettors	E.R. 1 of 2013	25/04/2013
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Sections 89, 90 and 91 of the Criminal Procedure Ordinance (Cap 221) shall apply to proceedings in the Court with such verbal alterations and modifications not affecting the substance thereof as may be necessary to render the same conveniently applicable.

(Replaced 5 of 1971 s. 13)

Section:	86	Seizure of property	E.R. 1 of 2013	25/04/2013
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The Court shall have all the powers conferred upon the Court of First Instance by sections 102 to 106 inclusive of the Criminal Procedure Ordinance (Cap 221).

(1 of 1953 s. 34 incorporated. Amended 21 of 1962 s. 13; 25 of 1998 s. 2)

Section:	87	Criminal Procedure Rules	E.R. 1 of 2013	25/04/2013
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The Rules Committee may make rules touching the procedure and practice of the Court in the exercise of its criminal jurisdiction and such rules may provide for- (Amended 21 of 1962 s. 18)

- (a) forms to be used in the Court, including in relation to charge sheets all such matters as may be prescribed in relation to indictments by rules made under section 9 of the Criminal Procedure Ordinance (Cap 221);
- (b) the times at or within which documents must be filed in the Court or notices delivered to or served on the Court or any person;
- (c) the functions in relation to criminal proceedings in the Court of the various officers of the Court;
- (d) the manner in which the right of audience shall be enjoyed and used, the order of addresses, and the form and practice of advocacy in the Court;
- (e) the assigning of counsel and solicitors for the defence of paupers, and the fees and costs to be allowed therefor; and
- (f) generally, the better carrying into effect of the provisions of this Part.

(1 of 1953 s. 36 incorporated)

Section:	88	Saving of prerogative of mercy	E.R. 1 of 2013	25/04/2013
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Nothing in this Ordinance shall affect any power vested in the Chief Executive to pardon offences or commute penalties.

(1 of 1953 s. 37 incorporated. Amended 25 of 1998 s. 2)

Section:	89	(Repealed 28 of 2000 s. 43)	L.N. 247 of 2000	01/09/2000
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Section:	90	(Repealed 28 of 2000 s. 44)	L.N. 247 of 2000	01/09/2000
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Schedule:	1	Form of Charge Sheet	E.R. 1 of 2013	25/04/2013
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[section 77]

IN THE DISTRICT COURT OF HONG KONG

HOLDEN AT

HKSAR

against

A. B.
The court is informed that the following charges are preferred against A.
B. by the Secretary for Justice.

Statement of Offence.

Particulars of Offence.

Dated this day of .

(Signed)
(Name and post title of the legal officer)
for and on behalf of the Secretary for Justice.

And if there are more charges than one, then the various charges shall be set out as follows-

(Begin as above), that the following charges are preferred against A.
B. by the Secretary for Justice.

First Charge.

Statement of Offence.
Particulars of Offence.

Second Charge.

Statement of Offence.
Particulars of Offence.

etc. etc.

Dated this day of .

(Signed)
(Name and post title of the legal officer)
for and on behalf of the Secretary for Justice.
(Amended L.N. 362 of 1997; 25 of 1998 s. 2; 25 of 2008 s. 9)

Schedule:	2		E.R. 1 of 2013	25/04/2013
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[section 79(2)]

Part 1

Provisions of the Criminal Procedure Ordinance (Cap 221) not applicable to the procedure and practice of the District Court in its Criminal Jurisdiction

Criminal Procedure Ordinance (Cap 221), sections 9, 10, 11, 12, 14, 15, 17, 27, 33, 41, 42, 49, 50, 52, 53, 68, 71, 77, 85, 86, 88, 115, 118, 119 and 120 and the First Schedule.

(Amended 5 of 1971 s. 13; 25 of 1972 s. 7; 59 of 1981 s. 4)

Part 2

[section 79(3)]

Special provisions touching the procedure and practice of the District Court in its Criminal Jurisdiction

1. Plea

- (1) The accused person shall be placed at the bar unfettered and not in prison clothes, unless the Court sees fit to direct otherwise.
- (2) The charge shall then be read over to him and explained, if necessary, and he shall be required to plead thereto in person, unless he objects to the want of due service of the charge sheet, and the Court finds that he has not been duly served therewith.

(Amended 5 of 1971 s. 13)

2. Charge sheet containing charge of previous conviction

- (1) Where a charge sheet contains a charge alleging that the accused person has been previously convicted, he shall not be called upon to answer that allegation save after he has been convicted upon a charge alleging a substantive offence.
- (2) Upon conviction of an accused person as aforesaid, the Court shall, unless the accused person admits the allegation that he has been previously convicted, proceed to determine whether or not he has been so previously convicted.

3. Objection of substance to charge

- (1) No objection to a charge shall be taken by way of demurrer, but if a charge does not state, in substance, an offence or states an offence not triable by the Court, the accused person may move the Court to quash it or in arrest of judgment.
- (2) If such motion is made before the accused person pleads, the Court may dismiss the charge or amend it.
- (3) If a defect in a charge appears to the Court during the trial, and the Court does not then think fit to amend the charge it may either quash the charge or leave the objection to be taken thereafter in arrest of judgment.
- (4) If a charge is quashed under the provisions of this paragraph, the Court may direct the accused person to be detained in custody or to be released on bail for a period not exceeding 14 days thereafter, and may order him to plead to another charge if called on to do so within that same period.