Library Workshop for ENVR 3420
Hong Kong Environmental Legal Information

Sept 26th, 2018
7:00 – 8:30pm

Victoria Caplan
Library Reference
lbcaplan@ust.hk
Library Guide

http://libguides.ust.hk/envr3420

ENVR 3420 - Environmental Law and Regulations: Home

Will help students in their assignments and study for ENVR 3420

Goals

This guide and the workshop it is designed to supplement has these goals:

- Short term - Help you learn the start of the mechanics of searching for legal information for ENVR 3420
- Long term: Help you learn about
  - Legal Information creation & dissemination process & how you can search it strategically
  - Legal Information as an EXAMPLE of ONE type of information.

By learning to explore & use the world of legal information, you will develop skills and attitudes that will allow you to explore and learn to use information in other areas of study or interest.
Basic Concepts & Terms

Primary Sources
= Laws & law cases

Secondary Sources
= books, & articles in law journals

Common law 普通法
= Laws + law cases

Statutes = legislation = laws = Ordinances

Hong Kong – we call laws “ordinances” –
Example: the Noise Control Ordinance
Hong Kong Law

http://libguides.ust.hk/envr3420/

ENVR 3420 - Environmental Law and Regulations: Hong Kong Law

Will help students in their assignments and study for ENVR 3420

Lifecycle of an Ordinance

<table>
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<th>Stage</th>
<th>Manifestations</th>
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<tr>
<td>Proposals for change in the law from various sources, Govt. Law Reform Commission, other organizations</td>
<td>Consultation papers, LRC reports</td>
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<tr>
<td>Draft bill</td>
<td>Send to interested parties for comments</td>
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<td>Bill</td>
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<td>First reading/second Reading</td>
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<td>Third reading</td>
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<tr>
<td>Chief Executive's assent</td>
<td>Signed on Legal Supplement 1</td>
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<tr>
<td>Ordinance published</td>
<td>Legal Supplement 1</td>
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</tbody>
</table>
HKeL- Hong Kong e-Legislation (a)

https://www.elegislation.gov.hk/

- Official e-version of Laws of Hong Kong
- Browse-able, keyword searchable
• Choose “browse” for subject index
Ordinances for Environmental Issues? Subject index search (1)

1. Choose “select subject”

2. Type - environment
Ordinances for Environmental Issues? Subject index search (2)

3. Choose “Environmental Protection & Conservation”

4. List of related ordinances will appear

### English Subject Index to Ordinances

**Administrative Boards & Tribunals** (See also Courts, Judicial Officials)
- Administrative Appeals Board Ordinance
- Labour Tribunal Ordinance
- Lands Tribunal Ordinance
- Minor Employment Claims Adjudication Board Ordinance
- Municipal Services Appeals Board Ordinance
- Small Claims Tribunal Ordinance

**Agriculture**
- Agricultural Products (Marketing) Ordinance
- Kadoorie Agricultural Aid Loan Fund Ordinance
- Kadoorie Farm and Botanic Garden Corporation Ordinance
- Pesticides Ordinance

**Animals** (See also Fisheries)
- Animals (Control of Experiments) Ordinance
- Dogs and Cats Ordinance
- Pounds Ordinance
- Prevention of Cruelty to Animals Ordinance
- Protection of Endangered Species of Animals and Plants Ordinance
- Public Health (Animals and Birds) Ordinance
- Rabies Ordinance
- Wild Animals Protection Ordinance

**Antiquities & Monuments**
- Antiquities and Monuments Ordinance

**Apportionment**

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**Ordinances for Environmental Issues? Full index pdf**
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<th>Environmental Protection &amp; Conservation</th>
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<td>Buildings Energy Efficiency Ordinance</td>
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<td>Banker Oil Pollution (Liability and Compensation) Ordinance</td>
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<td>Civil Aviation (Aircraft Noise) Ordinance</td>
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<td>District Cooling Services Ordinance</td>
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<td>Noise Control Ordinance</td>
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<tr>
<td>Oil (Conservation and Control) Ordinance</td>
<td>264</td>
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</table>
Quick search = problematic
Avoid for now
Use title search instead
Another method – go to chapter (a)

1. Type 311 in chapter/Instrument no. box

2. Select & view a section
Another method – go to to chapter (b)

https://www.elegislation.gov.hk/hk/cap311

To make provision for abating, prohibiting and controlling pollution of the atmosphere and for matters connected therewith.

(Amended 2 of 1991 s. 2)

(Format changes—E.R. 2 of 2014)

Part I

Preliminary

(Format changes—E.R. 2 of 2014)

1. Short title
   This Ordinance may be cited as the Air Pollution Control Ordinance.

2. Interpretation
   In this Ordinance, unless the context otherwise requires—
   actual emission (實際排放量), in relation to a type of specified pollutant, means the quantity, as ascertained by such method
Not as official – but more user-friendly
A is for Air Pollution

Hong Kong Ordinances beginning with A ...

- ABBOT OF THE ORDER OF CISTERCIANS OF THE STRICT OBSERVANCE INCORPORATION ORDINANCE (CAP 1107)
- ACCREDITATION OF ACADEMIC AND VOCATIONAL QUALIFICATIONS ORDINANCE (CAP 592)
- ADMINISTRATION OF ESTATES BY CONSULAR OFFICERS ORDINANCE (CAP 191)
- ADMINISTRATION OF JUSTICE (FECONIES AND MISDEMEANOURS ORDINANCE (CAP 328)
- ADMINISTRATIVE APPEALS BOARD ORDINANCE (CAP 442)
- ADOPTION ORDINANCE (CAP 290)
- AERIAL ROPEWAYS (SAFETY) ORDINANCE (CAP 211)
- AFFILIATION PROCEEDINGS ORDINANCE (CAP 183)
- AGE OF MAJORITY (RELATED PROVISIONS) ORDINANCE (CAP 410)
- AGRICULTURAL PRODUCTS (MARKETING) ORDINANCE (CAP 277)
- AIR ARMAMENT PRACTICE ORDINANCE (CAP 194)
- AIR PASSENGER DEPARTURE TAX ORDINANCE (CAP 140)
- AIR POLLUTION CONTROL ORDINANCE (CAP 311)
- AIRPORT AUTHORITY ORDINANCE (CAP 483)
- ALICE HO MIU LING NETHERSOLE HOSPITAL INCORPORATION ORDINANCE (CAP 1181)
- ALICE HO MIU LING NETHERSOLE HOSPITAL INCORPORATION ORDINANCE (CAP 1072)
- ALIENS (RIGHTS OF PROPERTY) ORIANCE (CAP 185)
Books to Help You (1)

*Annotated ordinances of Hong Kong: with relevant subsidiary legislation.* (Reference KNR1.9 1995)
- Comprehensive annotations to 150+ major ordinances
- Has lots of cross references to relevant legislation and case law.

*Halsbury's laws of Hong Kong* (Reference KNQ9302.3 .H35)
- Multi-volume legal encyclopedia for Hong Kong.
- Each volume has statements of laws on special topics
  - Contract, tort, human rights and environment
  - References to Hong Kong legislation and case law.

*Halsbury's laws of Hong Kong. Current service.*
(Reference KNQ9302.3 .H352)
- An updating service for the bound volumes: *Halsbury's laws of Hong Kong.*

*Hong Kong legal dictionary* (Reference KNR2.6 .H66 2004)
Law Cases (1)

Selective inclusion in law reports

Must have “legal significance and value as precedents” to be included

Major HK law reports

• Hong Kong Law Reports
• Hong Kong Cases

HK Unreported Judgments

Judgments not collected in any law reports
All Hong Kong case law
Complete e-version: Westlaw International --> Hong Kong Case Law.

The Authorised Hong Kong Court of Final Appeal reports.
(Periodicals KNR2.3.A2 H63)

The Authorised Hong Kong law reports & digest.
Formerly: The Hong Kong law reports.

(Previous in Periodicals on LG4)
Decipher Legal Citations

https://libguides.ust.hk/envr3420/legal-citations
WestLaw & Websites

https://libguides.ust.hk/envr3420/westlaw-websites
Use WestLaw to Find Law Cases

Go to WestLaw box

Westlaw Asia

- Extensive legal database which provides full-text legislation, case law and law reviews covering the jurisdictions of Hong Kong, the United Kingdom, Australia & other jurisdictions
- Treaties and international agreements are also included.
- Content highlights
  - Hong Kong Law Reports and Digest (1905-)
  - Hong Kong Latest Judgment Alert Service (1999-)
  - UK statutes (1267-) and UK cases (1865-)
  - Legal Journals Index which provides citations and abstracts of over 800 law journals published in the UK and Europe (1986-).
WestLaw

WestLaw default search is “Westlaw Asia”

Select Cases
YUE TAI PLYWOOD & TIMBER CO LTD v FAR EAST WAGNER CONSTRUCTION LTD & ANOTHER

Court of First Instance

23 August 2000 and 19 April 2001

High Court Action No 3147 of 2000

High Court Action 3147/2000
WestLaw – BBC v. Johns (1965) Ch 32

Search

Results

1. **BBC v Johns** Court of Appeal, 1964-03-05
   
   **Subject:** Tax  
   **Keywords:** Public companies; Surplus; Trading  
   **Documents:** Case Analysis [1965] Ch. 32 [1964] 2 W.L.R. 1071  
   - Hit terms in context:  
     - ... *Johns* (Inspector of Taxes)...

2. **BBC v Johns** Chancery Division, 31 July 1963
   
   **Subject:** Tax  
   **Keywords:** BBC; Income tax; Profits; Trading  
   **Documents:** Case Analysis
Boraston's Case

Court of King's Bench, 1587-01-01

Subject:

Keywords:

Where Reported: 76 E.R. 664; (1587) 3 Co. Rep. 16

Documents: Case Analysis, 76 E.R. 664

Hit terms in context:

Boraston's Case...

[664] Boraston's Case

1 January 1587

(1587) 3 Coke 16a

76 E.R. 664

1587

[16 a]

Hil. 29 Eliz. in B. R. Rot. 790. 1587.

[Distinguished, Locke v. Lamb, 1867, L. R. 4 Eq. 382. See Patching v. Barnett, 1880, 49 L.J. Ch. 668;]
Case Analysis of Boraston

Boraston mentioned (cited) in Phipps v. Akers

Opened in new tab
## Search Terms and Connectors

<table>
<thead>
<tr>
<th>Term / Expression</th>
<th>Meaning</th>
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<tr>
<td>Westlaw [guide] &quot;credit card&quot;</td>
<td>Retrieve the phrase &quot;credit card.&quot;</td>
</tr>
<tr>
<td>&quot;credit card&quot; &amp; fraud</td>
<td>Both the phrase &quot;credit card&quot; and &quot;fraud&quot; will appear.</td>
</tr>
<tr>
<td>negligence /p liability</td>
<td>&quot;Negligence&quot; must be within the same paragraph as &quot;liability.&quot;</td>
</tr>
<tr>
<td>negligence /s liability</td>
<td>&quot;Negligence&quot; must be within the same sentence as &quot;liability.&quot;</td>
</tr>
<tr>
<td>&quot;chan chi man&quot; /5 ABC company</td>
<td>&quot;Chan Chi Man&quot; must be within 5 words of &quot;ABC company.&quot;</td>
</tr>
<tr>
<td>car automobile</td>
<td>Retrieve either search term or both terms.</td>
</tr>
<tr>
<td>trust % charitable</td>
<td>Exclude the word &quot;charitable.&quot;</td>
</tr>
<tr>
<td>fraud!</td>
<td>Retrieve &quot;fraud,&quot; &quot;frauds,&quot; &quot;fraudulent,&quot; or &quot;fraudulence.&quot;</td>
</tr>
<tr>
<td>(&quot;gm food&quot; &quot;genetically modified food&quot;) &amp; (law! label!)</td>
<td>Combine sets of related terms with brackets.</td>
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No. 11 - LegCo Debates – Hansard (1)

Hong Kong

LegCo - Current and Past Meeting Records (Hansard)

To find the debate for 26 June 2002

1. Choose Second Legislative Council -
2. Choose the years 2001-02
3. Find the June 26th meeting

Council Meetings

Second Legislative Council (2000 - 2004)

The Council normally meets every Wednesday afternoon in the Chamber of the Legislative Council Building to conduct its business while in session. Its business includes: the tabling of subsidiary legislation and other papers; reports and addresses; statements; questions; the scrutiny of bills; and motion debates. From time to time, the Chief Executive attends a special Council meeting to brief Members on policy issues and to answer questions from Members. All Council meetings are open to the public. The proceedings of the meetings are recorded verbatim in the Official Record of Proceedings of the Legislative Council (Hansard).

The records of proceedings of the Council are first presented in the original language as delivered by Members and officials at Council meetings (Floor version). They will then be translated into the English and Chinese versions separately.
No. 11 - LegCo Debates – Hansard (2)

Meetings (Year 2001-2002)

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<td>March, 2002</td>
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26 June, 2002

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<th>Agenda</th>
<th>Minutes Voting Result</th>
<th>Hansard (English)</th>
<th>Hansard (Floor)</th>
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</table>

Resumption of Second Reading on Bill

PRESIDENT (in Cantonese): We will resume the Second Reading debate on the Noise Control (Amendment) Bill 2001.

NOISE CONTROL (AMENDMENT) BILL 2001

Resumption of debate on Second Reading which was moved on 27 June 2001

PRESIDENT (in Cantonese): Mr IP Kwok-him, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee’s Report.

MR IP KWOK-HIM (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Noise Control (Amendment) Bill 2001 (the Bill), I would like to report on the deliberations of the Committee.

The Noise Control (Amendment) Bill 2001 (the Bill) seeks to provide that where an offence specified under the Noise Control Ordinance (NCO) has been committed by a body corporate, certain directors and officers of the body corporate shall be guilty of the like offence where the body corporate commits a further offence at the same site. Furthermore, the Bill seeks to empower the Noise Control Authority (the Authority) to issue codes of practice to various industries.

http://www.legco.gov.hk/yr01-02/english/counmtg/hansard/cm0626ti-translate-e.pdf
No. 12. *Hong Kong Lawyer*

Search the Library Catalog (1)

Hong Kong Lawyer, 01 of 2002, pp. 38-43

Drop-down menu -title

Only search Library Catalog
No. 12. *Hong Kong Lawyer*

Search the Library Catalog (3)

Hong Kong Lawyer, 01 of 2002, pp. 38-43
No. 12. *Hong Kong Lawyer*

Search the Library Catalog (4)

*Hong Kong Lawyer*, 01 of 2002, pp. 38-43

Click on “Locate” & get location on Library Floor Plan
No. 16 Gammon (HK) Ltd. (1)

Back to WestLaw

- Hong Kong Cases
- Weekly Law Report
- Appeal Case Law Report
No. 16 Gammon (HK) Ltd. (2)

Scroll down to no. 10

10. Gammon (Hong Kong) Ltd v Attorney General of Hong Kong Privy Council (Hong Kong), 08 May 1984

Subject: Criminal law
Keywords: Building regulations; Hong Kong; Offences; Strict liability

Hit terms in context:
... Gammon (Hong Kong) Ltd...
... Attorney General of Hong Kong...
... GAMMON (HONG KONG) LTD & ORS v ATTORNEY GENERAL OF HONG KONG...
... Gammon (Hong Kong) Ltd...
... Attorney General of Hong Kong...
... GAMMON (HONG KONG) LTD & ORS v ATTORNEY GENERAL OF HONG KONG...
No. 16 Gammon (HK) Ltd. (3)

Lord Fraser of Tollybelton, Lord Scarman, Lord Bridge of Harwich and Lord Brightman
1984 Feb. 28, 29; March 1, 5; May 8

[Appeal from the Court of Appeal of Hong Kong]

Crime—Mens rea—Statutory offence—Building works—Deviation from approved plans—Likelihood of causing risk of injury or damage—Whether offences of strict liability—Buildings Ordinance (Laws of Hong Kong, 1981 rev. c. 123, s. 40(2A)(b) (28)(b))

Section 40 of the Buildings Ordinance provides:

“(2A) any ... registered contractor ... directly concerned with [building works] who ... (b) diverges or deviates in any material way from any work shown in a plan approved by the building authority under this Ordinance ... shall be guilty of an offence and shall be liable on conviction to a fine ... and to imprisonment. (2B) Any person ... directed concern with [building works] who ... (b) contrives or permits ... such *2 works to be carried out, in such manner as is likely to cause a risk of injury to any person or damage to any property, shall be guilty of an offence and shall be liable on conviction to a fine ... and to imprisonment.”

The first appellant company was the registered contractor under the Buildings Ordinance carrying out building works on a site in Hong Kong. The second appellant was the project manager employed by the company and the third appellant was its site agent, and the company had delegated to them the fulfillment of its obligations under the Ordinance. A temporary lateral support system was erected as required in the interests of safety by plans approved by the building authority. Part of the lateral support system was subsequently removed, which was a substantial deviation from the plans and was likely to cause a risk of injury or damage. The company was charged with deviation in a material way from approved plans contrary to section 40(2A)(b) of the

*1 Gammon (Hong Kong) Ltd. First Appellant Yee Chin Teo Second Appellant Chak Shing Mak Third Appellant v Attorney-General of Hong Kong Respondent

Privy Council
8 May 1984
[1984] 3 W.L.R. 437
[1983] A.C. 1

Lord Fraser of Tollybelton, Lord Scarman, Lord Bridge of Harwich and Lord Brightman
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[Appeal from the Court of Appeal of Hong Kong]

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The first appellant company was the registered contractor under the Buildings Ordinance carrying out building works on a site in Hong Kong. The company and the third appellant was its site agent, and the company had delegated to them the fulfillment of its obligations required in the interests of safety by plans approved by the building authority. Part of the lateral support system was subsequently likely to cause a risk of injury or damage. The company was charged with deviation in a material way from approved plans contrary to section 40(2A)(b). The second appellant was charged with care carried out in a manner likely to cause risk of injury or damage contrary to section 40(2B)(b). At the end of the prosecution case all of the facts that constituted the ingredients of the offence charged. He dismissed the charges against all three appellants. The Attorney-General, the Court of Appeal of Hong Kong, allowing the appeal and remitting the case to the magistrate, held that it was a defendant knowingly or intentionally deviated in a material way from the approved plans or, under section 40(2A)(b), that a defendant knowingly or intentionally deviated in a material way from an approved plan contrary to section 40(2B)(b). By section 40 of the Buildings Ordinance (Hong Kong): (2A) any ... registered contractor ... directly concerned with [building works] who ... (b) diverges or deviates in any material way from any work shown in a plan approved by the building authority under this Ordinance ... shall be guilty of an offence and shall be liable on conviction to a fine ... and to imprisonment. (2B) Any person ... directly concerned with any building works who ... (b) contrives or permits ... such works to be carried out, in such manner as is likely to cause a risk of injury to any person or damage to any property, shall be guilty of an offence and shall be liable on conviction to a fine ... and to imprisonment.”

The first appellant company was a registered contractor for certain building works in Hong Kong. The second appellant was the company’s project manager and the third appellant was its site agent. A temporary lateral support system erected as required in the interests of safety by plans approved by the building authority was partially removed resulting in part of the site becoming unsafe thereby likely to cause risk of injury or damage. The company was charged with deviation in a material way from an approved plan contrary to section 40(2A)(b) of the Buildings Ordinance of Hong Kong (1981 ed.) and with carrying out works in a manner likely to cause risk of injury or damage contrary to section 40(2B)(b). The second appellant was charged with carrying out the works, and the third appellant with permitting the works to be carried out, in a manner likely to cause risk of injury or damage contrary to section 40(2B)(b). The charges were dismissed by the magistrate at the end of the prosecution case holding that merce none of all the facts was a necessary ingredient of the offence and had not been proved. On appeal by the Crown the Hong Kong Court of Appeal held that it was not necessary for the prosecution, under section 40(2A)(b), to prove that a defendant knowingly or intentionally deviated in a material way from the approved plans or, under section 40(2B)(b), that a defendant knowingly or intentionally caused a risk of injury or damage to any property.
Conclusion

For these reasons their Lordships conclude that to the extent indicated the offences charged against the appellants are of strict liability. Their counsel did develop a detailed argument on the long history of the Buildings Ordinance beginning with its enactment in 1955 and continuing through many amendments until the present day. But there is nothing in the history to suggest any view of the Ordinance or the subsections under consideration other than that taken by the Court of Appeal and now adopted by their Lordships. The basic submission of the appellants was that the imposition of strict liability (to the extent analysed in the earlier part of this judgment) "could not in any way affect the observance of the law ..." (words taken from Lim Chin Aik v. The Queen [1963] A.C. 160, 175). Their Lordships reject the submission for the reasons which they have given.

Their Lordships will humbly advise Her Majesty that the appeal be dismissed. The order of the Court of Appeal that the case be remitted to the magistrate stands. The appellants must pay the respondent's costs "20 in the Court of Appeal and before the Board. The costs in the magistrates' court must be for the magistrate to decide upon conclusion of the further hearing in his court.

Representation

Solicitors: Denton Hall & Burgin ; Charles Russell & Co .
Feedback:

https://library.ust.hk/feedback