Library Workshop for ENVR 3420
Hong Kong Environmental Legal Information

Sept 23rd, 2020
7:00 – 8:30pm

Victoria Caplan
Library Reference
lbcaplan@ust.hk
Library Guide

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

Hong Kong e-Legislation (HKelL)
An electronic database of the consolidated statute laws of Hong Kong established and updated by the Department of Justice (DOJ).

Hong Kong Legal Information Institute
Provides access to Hong Kong legislation, cases, reports, and more.

HKSAR Government Gazette Legal Supplements
The Government of the Hong Kong Special Administrative Region gazette (E-Resources KNR1.5.H605)
It is published weekly in Chinese and English when the Legislative Council is in session. It consists of a main volume and seven supplementary volumes. The following supplements are important:

- Proposals for change in the law from various sources: Govt., Law Reform Commission, other organizations.
- Consultation papers, LRC reports.
- Draft bill: Send to interested parties for comments.
- Bill: LBS3 (blue paper).
- First reading/second Reading: Hansard.
- Committee: Hansard.
- Third reading: Hansard.
- Chief Executive's assent: Signed on Legal Supplement 1.
- Ordinance published: Legal Supplement 1.
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

Ordinances for Environmental Issues?

Full index pdf

<table>
<thead>
<tr>
<th>Chapter / Instrument Title</th>
<th>Chapter / Instrument No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Boards &amp; Tribunals (See also Courts, Judicial Officials)</td>
<td>442</td>
</tr>
<tr>
<td>Labour Tribunal Ordinance</td>
<td>25</td>
</tr>
<tr>
<td>Labour Tribunal Ordinance</td>
<td>17</td>
</tr>
<tr>
<td>Minor Employment Claims Adjudication Board Ordinance</td>
<td>453</td>
</tr>
<tr>
<td>Municipal Services Appeals Board Ordinance</td>
<td>230</td>
</tr>
<tr>
<td>Small Claims Tribunal Ordinance</td>
<td>228</td>
</tr>
<tr>
<td>Agriculture</td>
<td>277</td>
</tr>
<tr>
<td>Agroforestry Agricultural Aid Loan Fund Ordinance</td>
<td>1080</td>
</tr>
<tr>
<td>Agroforestry Farm and Botanic Garden Corporation Ordinance</td>
<td>1156</td>
</tr>
<tr>
<td>Pesticides Ordinance</td>
<td>133</td>
</tr>
<tr>
<td>Animals (See also Fisheries)</td>
<td>540</td>
</tr>
<tr>
<td>Dogs and Cats Ordinance</td>
<td>187</td>
</tr>
<tr>
<td>Ponds Ordinance</td>
<td>168</td>
</tr>
<tr>
<td>Prevention of Cruelty to Animals Ordinance</td>
<td>189</td>
</tr>
<tr>
<td>Protection of Endangered Species of Animals and Plants Ordinance</td>
<td>586</td>
</tr>
<tr>
<td>Public Health (Animals and Birds) Ordinance</td>
<td>139</td>
</tr>
<tr>
<td>Rabies Ordinance</td>
<td>421</td>
</tr>
<tr>
<td>Wild Animals Protection Ordinance</td>
<td>170</td>
</tr>
<tr>
<td>Antiquities &amp; Monuments</td>
<td>55</td>
</tr>
<tr>
<td>Antiquities and Monuments Ordinance</td>
<td>18</td>
</tr>
<tr>
<td>Arpment</td>
<td>13</td>
</tr>
</tbody>
</table>
Subject Index - Ordinances (pdf)
– Environmental Protection & Conservation

Ctrl-f the pdf:
environment
Another method – go to chapter (a)

1. Type 311 in chapter/Instrument no. box

2. Select & view a section
Another method – go 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)


(Form changes—E.R. 2 of 2014)

Part I

Preliminary

(Form 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
Hong Kong Legal Information Institute (HKLIL) [a]

Hong Kong Legal Information Institute
Free access to legal information in Hong Kong

Find in all HKLII Databases
[Advanced Search] [LawCite] [Help]
37 databases in Hong Kong

HKLII has been accessed 8,901,575 times since 11 November 2011 (3,617 times today)

Welcome to HKLII

HKLII is a project of Law & Technology Centre, a centre jointly established by Department of Computer Science and Faculty of Law of the University of Hong Kong. HKLII has obtained the kind assistance of the Australasian Legal Information Institute (AustLII) in its development. With a view to promoting and supporting the rule of law in Hong Kong, HKLII is a free, independent, non-profit Internet facility providing the public with legal information relating to Hong Kong. HKLII supports and participates in the free access to law movement.

News and Database Additions

• Hong Kong Treaty Series

Hong Kong Treaty Series has been launched on HKLII. This is an electronically searchable database containing full text of (1) arrangements with the Macao SAR, (2) arrangements with the Mainland China, (3) bilateral agreements, and (4) treaties that are applicable to Hong Kong. Hong Kong Treaty Series is a knowledge exchange project of the University of Hong Kong (HKU) conducted by the HKLII team with the financial support from the HKU Knowledge Exchange Fund.

To collect feedback on the database, you are invited to take a short anonymous survey.

• Neutral Citations Officially Adopted by the Judiciary with Effect from 1 January 2018

In accordance with the Practice Direction 5.5, issued on 1 December 2017, official neutral citations will be used by the Judiciary for all Hong Kong judgments delivered after 1 January 2018. Official neutral citations have to be cited for judgments delivered after that date in the following format:

Not as official – but a bit more user-friendly
A is for Air Pollution
Books to Help You (1)

Annotated ordinances of Hong Kong: with relevant subsidiary legislation.
(Reference KNQ 9302.3)
• 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)
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) – on LG4

_The Authorised Hong Kong law reports & digest._ (Formerly: _The Hong Kong law reports_).
   (Periodicals KNR 2.23 .A3 H65) - on LG4)
Understand & Decipher Legal Citations

https://libguides.ust.hk/envr3420/legal-citations

LibGuides @ HKUST Library

ENVR 3420 - Environmental Law and Regulations: Understand & Find Legal Citations
Will help students in their assignments and study for ENVR 3420

Legal Citations

Why cite cases? Legal citations are made to back up points by using previous decisions: "Precedents"

- Lawyers use them to support the legal argument that they are making
- Judges use them to reach judgments or support judgements

Case Citation: Often published in case reports.

Examples:
- Dimes v Grand Junction Canal Proprietors Ltd (1852) 3 HL Cas 759
- Congreve v Home Office (1976) 1 QB 629

Often made up of the following parts:

<table>
<thead>
<tr>
<th>Party 1 of lawsuit</th>
<th>versus</th>
<th>Party 2 of lawsuit</th>
<th>[etc.]</th>
<th>Date</th>
<th>Source Title (often abbreviated)</th>
<th>Page number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dimes</td>
<td>v</td>
<td>Grand Junction Canal Proprietors Ltd</td>
<td>1852</td>
<td>3 HL Cas (II House of Lords Cases)</td>
<td>759</td>
<td></td>
</tr>
<tr>
<td>Congreve</td>
<td>v</td>
<td>Home Office</td>
<td>1976</td>
<td>1 QB 629 (Court of Appeal - Queens Bench)</td>
<td>629</td>
<td></td>
</tr>
</tbody>
</table>

Try using WestLaw, unless you are pretty sure that it's only available in hard copy.
WestLaw & Websites

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

Go to WestLaw box
WestLaw default search is “Westlaw Asia”
Yue Tai Plywood
WestLaw – UK Cases – Boraston (no. 13)

1. Search for party names or citation in Westlaw.

2. Information on 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...

3. Result of search on Westlaw Asia:
   - 76 E.R. 664
     - Case Analysis
     - Where Reported
     - All Cases Cited
     - All Cases Citing
     - Tabular View
## Case Analysis of Boraston

**Boraston's Case**  
*Court of King's Bench*  
*01 January 1587*

### Where Reported

- 76 E.R. 664; (1587) 3 Co. Rep. 16; (1587) 1 W.L.J. 1;

### Case Digest

**Mallinson's Consolidated Trusts, Re**  
- **Case Name:** Mallinson's Consolidated Trusts, Re  
- **Court:** Ch D  
- **Date:** 03/04/1974  

---

*Case Analysis*

Boraston mentioned (cited) in Mallinson's Consolidated Trusts, Re.
Mallinson’s Consolidated Trust...

Brings us to Phipps v. Akers..
### Search Terms and Connectors

<table>
<thead>
<tr>
<th>Term</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>&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>
</tr>
</tbody>
</table>
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. 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)
No. 16 Gammon (HK) Ltd. (3)

[1985] A.C. 1

[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, 1961 rev., c. 129, s. 40(5)(A)(ii) (29A))

Section 40 of the Buildings Ordinance provides:

"(2A) any registered contractor...directly concerned with [building works] who...builts or deviates in any material way from any work shown in a plan approved by the building authority under the 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...carries out...permits...such if 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 retained, which was a substantial deviation from the plans and was likely to cause a risk of injury or damage. The company was convicted with discretion in a material case from another court, and convicted of sections 40(5)(A)(ii) (29A) of the Buildings Ordinance.

[1984] 3 W.L.R. 437

[1985] 80 Cr. App. R. 194

[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—Buildings Ordinance ( Laws of Hong Kong, 1961 rev., c. 129, s. 40(5)(A)(ii) (29A))

A registered contractor...directly concerned with [building works] who...builts or deviates in any material way from any work shown in a plan approved by the building authority under the 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...carries out...permits...such if 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 under the Buildings Ordinance carrying out building works on a site in Hong Kong. The company was convicted with discretion in a material case from another court, and convicted of sections 40(5)(A)(ii) (29A) of the Buildings Ordinance.
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 obseiience of the law ..." (words taken from Lim Chin Aik v. The Queen [1983] A.C. 180, 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 £90 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

Solictors: Denton Hall & Burgin, Charles Russell & Co.

W.L.R.

Cr. App. R

A.C.
No 17. Adams v. Usrell
No. 18. Tetley v. Chitty (1)

Where Reported

Case Digest

Subject: Landlord and tenant

Keywords: Damages; Liabilities; Local authorities’ powers and duties; Nuisance

Summary: Nuisance by tenants; consent of landlords; whether landlords liable; whether injunction appropriate

Abstract: Where a landlord expressly or impliedly gives his consent to a use of land which has as a necessary and natural consequence the cause of sufficient noise to be classed as a nuisance, the landlord can be liable in nuisance. A local authority gave permission to a go-kart club to operate a go-kart track on certain land in its ownership, and subsequently...
Use Nexis-Uni to find *All England Law Reports* (1)
Use Nexis-Uni to find *All England Law Reports* (2)

Default = USA cases & legislation. To get HK or other content:

1. Choose “Advanced Search”
2. Choose Legal
3. Choose United Kingdom cases

Only 15 concurrent users at a time – pls just watch for now
Use Nexis-Uni to find *All England Law Reports* (3)
Use Nexis-Uni to find *All England Law Reports* (4)
Use Nexis-Uni to find All England Law Reports (5)
No. 18 - Tetley v. Chitty (2)
No. 18 - Tetley v. Chitty (3)
Rest of Your sheet...
Feedback:

https://library.ust.hk/feedback