HONG KONG PUBLIC LAW REPORTS

Volume 4 – Part 4
— 1994 —

Edited by
Andrew Byrnes
Johannes Chan
George Edwards
Ian Heffernan

Hong Kong University Press

Hong Kong University Press
The University of Hong Kong
Pokfulam Road, Hong Kong

© Hong Kong University Press
and The University of Hong Kong 1996

ISBN 962 209 379 5

All rights reserved. No portion of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage or retrieval system, without permission in writing from the publisher.

Printed in Hong Kong by Prosperous Printing Co., Ltd.

Contents

Cases Reported in Volume 4 Parts 1 to 4 v

Cases and Other Materials Considered in Volume 4 Parts 1 to 4 xv

- Cases xv
- Hong Kong Legislation xxxvi
- United Kingdom Legislation xliv
- Foreign Legislation xlv
- International Treaties and Other International Sources xlvi
- Other Sources xlvii

Hong Kong Public Law Reports 727

Cumulative Subject Index to Volume 4 Parts 1 to 4 925

Words and Phrases 973

Cases Reported in Volume 4 Parts 1 to 4*

Anastasius Chiu, R v (CA) 457

Apollonia Liu, ex parte Lau San-ching; R v (HCt) 400

Apollonia Liu, ex parte Lau San-ching; R v (CA) 415

Attorney General v Bui Thi Ngoan and others (No 1) (HCt) **824**

Attorney General v Bui Thi Ngoan and others (No 2)(HCt) **832**

Attorney General v Bui Thi Ngoan and others (No 3) (HCt) **837**

Attorney General v Cho Shu-wah (HCt) 514

Attorney General v Fong Chin-yue (CA) 430

Attorney General v Pham Si Dung (No 1) (HCt) **799**

Attorney General v Pham Si Dung (No 2) (HCt) **813**

Re a Minor (HCt) 667

Attorney General, ex parte Tsei Kwei-king and another, R v (HCt) 686

Auburntown Ltd; R v Town Planning Board, ex parte (HCt) 194

Banks, ex parte Lai Shu-wing and others, R v Her Majesty's Coroner of Hong Kong W B G (HCt) **782**

Bui Thi Ngoan and others (No 1), Attorney General v (HCt) **824**

Bui Thi Ngoan and others (No 2), Attorney General v (HCt) **832**

---

* Cases whose names appear in bold are reported in this issue.

Bui Thi Ngoan and others (No 3), Attorney General v (HCt) 837

Building Authority, Business Rights Ltd v (CA) 43

Business Rights Ltd v Building Authority (CA) 43

C, (A Minor), Re (HCt) 793

C, L v (HCt) 388

Chan Chak-fan, R v (CA) 285

Chan Po-ming, Eric; R v Thomas Chow Tat-ming, ex parte (HCt) 400

Chan Po-ming, Eric; R v Thomas Chow Tat-ming, ex parte (CA) 415

Chan Yat-fai and others, Re (HCt) 481

Cheng Kai-man, William (No 1); R v Panel on Takeovers and Mergers and another, ex parte (HCt) 274

Cheng Kai-man, William (No 2); R v Panel on Takeovers and Mergers and another, ex parte (HCt) 285

Cheng Kai-man, William (No 2); R v Panel on Takeovers and Mergers and another, ex parte (CA) 298

Cheung Kukching; R v Director of Immigration, ex parte (HCt) 542

China State Construction Engineering Corporation, R v (Mag) 716

Cho Shu-wah, Attorney General v (HCt) 514

Choi Kai-on, R v (CA) 105

Chong Ah-choi and others, R v (CA) 375

Chow Chai-sang and others, R v (DCt) 592

Chow Tat-ming, Thomas, ex parte Chan Po-ming, Eric; R v (HCt) 400

Chow Tat-ming, Thomas, ex parte Chan Po-ming, Eric; R v (CA) 415

Chow Tat-ming, Thomas, ex parte Fung Chan-ki, Richard; R v (HCt) 400

Chow Tat-ming, Thomas, ex parte Fung Chan-ki, Richard; R v (CA) 415

Chiu, Anastasius; R v (CA) 457

Chu Cheuk-hong, R v (CA) 651

Chu Kam-to and another, R v (HCt) 472

Chua, Anthony; Hong Kong Bar Association v (Barristers Discip Trib) 637

Commissioner of Correctional Services, ex parte Ngai Fook-lam, R v (HCt) 854

Crawley, R v (HCt) 62

Crown Solicitor v Datuk Jeffrey Kitingan, The (HCt) 860

Director of Immigration, ex parte Cheung Kukching, R v (HCt) 542

Director of Immigration, ex parte Du Gui-fang; R v (HCt) 562

Director of Immigration, ex parte Hai Ho-tak; R v (CA) 324

Director of Immigration, ex parte Le Tu Phuong and another; R v (CA) 430

Director of Immigration, ex parte Yin Xiang-jiang; R v (CA) 265

Disciplinary Committee of the Stock Exchange of Hong Kong Limited, ex parte Onshine Securities Limited, R v (HCt) 523

Dragages et Travaux, R v (Mag) 601

Du Gui-fang; R v Director of Immigration, ex parte (HCt) 562

Fong Chin-yue, Attorney General v (CA) 430

Fung Chan-ki, Richard; R v Thomas Chow Tat-ming, ex parte (HCt) 400

Fung Chan-ki, Richard; R v Thomas Chow Tat-ming, ex parte (CA) 15

Governor [Christopher Patten] and others, Yung Tak-lam, Philip v (HCt) 885

Governor, ex parte Reid; R v (CA) 18

Hai Ho-tak; R v Director of Immigration, ex parte (CA) 324

Hong Kong Bar Association v Anthony Chua (Barristers Discip Trib) 637

Hui Kin-hong, Harry R v (DCt) 581

Hui Siu-yan and others, R v Obscene Articles Tribunal, ex parte (HCt) 901

Human Rights Committee, General Comment 24(52) (reservations) (H R Ctee) 727

Immigration Tribunal, ex parte Tsang Yau-chiu and others, R v (HCt) 500

International Confederation of Free Trade Unions v China (ILO) 736

Kitingan, The Crown Solicitor v Datuk Jeffrey (HCt) 860

Ko Chi-yuen, R v (CA) 152

Kwok Hing-man, R v (CA) 186

L v C (HCt) 388

Lai Shu-wing and others, R v Her Majesty's Coroner of Hong Kong W B G Banks, ex parte (HCt) 782

Lai Yiu-pui, R v (CA) 115

Lau San-ching; R v Apollonia Liu, ex parte (HCt) 400

Lau San-ching; R v Apollonia Liu, ex parte (CA) 415

Le Tu Phuong and another, Re (CA) 159

Le Tu Phuong and another; R v Director of Immigration, ex parte (CA) 337

Leung Kit-chun, R v (CA) 38

Lift Contractors Disciplinary Board, ex parte Otis Elevator Company (HK) Ltd; R v (HCt) 168

Li Sum-Wo; R v Medical Council of Hong Kong, ex parte (HCt) 548

Lo Chak-man (No 2), R v (HCt) 466

Loui Wai-po and Ming Pao Holdings Ltd; R v Obscene Articles Tribunal, ex parte (HCt) 5

Lum Wai-ming, R v (CA) 497

Medical Council of Hong Kong, ex parte Li Sum-Wo, R v (HCt) 548

Ming Pao Newspapers Ltd and others, R v (Mag) 621

Ming Pao Holdings Ltd; R v Obscene Articles Tribunal, ex parte Loui Wai-po and (HCt) 5

Nattrass, Re (Mag) 234

Ng Kit-yuen, R v (CA) 33

Ng Ming, R v (HCt) 908

Ngai Fook-lam, R v Commissioner of Correctional Services, ex parte (HCt) 854

Obscene Articles Tribunal, ex parte Hui Siu-yan and others, R v (HCt) 901

Obscene Articles Tribunal, ex parte Loui Wai-po and Ming Pao Holdings Ltd; R v (HCt) 5

Obscene Articles Tribunal, ex parte Sum Mui-tai and another, R v (HCt) 711

Onshine Securities Limited; R v Disciplinary Committee of the Stock Exchange of Hong Kong Limited, ex parte (HCt) 523

Otis Elevator Company (HK) Ltd; R v Lift Contractors Disciplinary Board, ex parte (HCt) 168

Panel on Takeovers and Mergers and another, ex parte Cheng Kai-man, William (No 1); R v (HCt) 274

Panel on Takeovers and Mergers and another, ex parte Cheng Kai-man, William (No 2); R v (HCt) 285

Panel on Takeovers and Mergers and another, ex parte Cheng Kai-man, William (No 2); R v (CA) 298

Pham Si Dung (No 1), Attorney General v (HCt) 799

Pham Si Dung (No 2), Attorney General v (HCt) 813

R v Anastasius Chiu (CA) 475

R v Apollonia Liu, ex parte Lau San-ching (HCt) 400

R v Apollonia Liu, ex parte Lau San-ching (CA) 415

R v Attorney General, ex parte Tsei Kwei-king and another (HCt) 686 R v Chan Chak-fan (CA) 115

R v China State Construction Engineering Corporation (Mag) 716

R v Choi Kai-on (CA) 105

R v Chong Ah-choi and others (CA) 375

R v Chow Chai-sang and others (DCt) 592

R v Chow Tat-ming, Thomas, ex parte Chan Po-ming, Eric (HCt) 400

R v Chow Tat-ming, Thomas, ex parte Chan Po-ming, Eric (CA) 415

R v Chow Tat-ming, Thomas, ex parte Fung Chan-ki, Richard (HCt) 400

R v Chow Tat-ming, Thomas, ex parte Fung Chan-ki, Richard (CA) 415

R v Chu Cheuk-hong (CA) 651

R v Chu Kam-to and another (HCt) 472

R v Commissioner of Correctional Services, ex parte Ngai Fook-lam (HCt) 854

R v Crawley (HCt) 62

R v Disciplinary Committee of the Stock Exchange of Hong Kong Limited, ex parte Onshine Securities Limited (HCt) 523

R v Director of Immigration, ex parte Cheung Kukching (HCt) 542

R v Director of Immigration, ex parte Du Gui-fang (HCt) 562

R v Director of Immigration, ex parte Hai Ho-tak (CA) 324

R v Director of Immigration, ex parte Le Tu Phuong and another (CA) 337

R v Director of Immigration, ex parte Yin Xiang-jiang (CA) 265

R v Dragages et Travaux (Mag) 601

R v Governor, ex parte Reid (CA) 18

R v Her Majesty's Coroner of Hong Kong W B G Banks, ex parte Lai Shu-wing and others (HCt) 782

R v Hui Kin-hong, Harry (DCt) 581

R v Immigration Tribunal, ex parte Tsang Yau-chiu and others (HCt) 500

R v Ko Chi-yuen (CA) 152

R v Kwok Hing-man (CA) 186

R v Lai Yiu-pui (CA) 115

R v Leung Kit-chun (CA) 38

R v Lift Contractors Disciplinary Board, ex parte Otis Elevator Company (HK) Ltd (HCt) 168

R v Lo Chak-man (No 2) (HCt) 466

R v Lum Wai-ming (CA) 497

R v Medical Council of Hong Kong, ex parte Li Sum-Wo (HCt) 548

R v Ming Pao Newspapers Ltd and others (Mag) 621

R v Ng Kit-yuen (CA) 33

R v Ng Ming (HCt) 908

R v Obscene Articles Tribunal, ex parte Loui Wai-po and Ming Pao Holdings Ltd (HCt) 5

R v Obscene Articles Tribunal, ex parte Sum Mui-tai and another (HCt) 711

R v Panel on Takeovers and Mergers and another, ex parte Cheng Kai-man, William (No 1) (HCt) 274

R v Panel on Takeovers and Mergers and another, ex parte Cheng Kai-man, William (No 2) (HCt) 285

R v Panel on Takeovers and Mergers and another, ex parte Cheng Kai-man, William (No 2) (CA) 298

R v So Mun-fung (CA) 318

R v Tai Yiu-wah (CA) 56

R v To Kwan-hang (CA) 356

R v Town Planning Board, ex parte Auburntown Ltd (HCt) 194 R v Tsoi Yiu-cheong (CA) 356

R v Wang Shih-hung (CA) 430

R v Wong Sau-chuen (CA) 129

R v Wong Sik-ming (DCt) 488

R v Wong Wai (Mag) 245

R v Yau Chi-keung (CA) 453

R v Yeung Chi-chiu and Fu Kam-wing (DCt) 677

R v Yu Yem-kin (HCt) 75

Reid; R v Governor, ex parte (CA) 18

Sanguandikul and the Government of the United States of America and another (No 2), Re Thongchai (CA) 768

So Mun-fung, R v (CA) 318

Sum Mui-tai and another; R v Obscene Articles Tribunal, ex parte (HCt) 711

Tai Yiu-wah, R v (CA) 56

Thanat Phaktiphat and the Government of the United States of America, Re (HCt) 652

Tin Sau Kwong, Re (Mag) 917

To Kwan-hang, R v (CA) 356

Town Planning Board, ex parte Auburntown Ltd; R v (HCt) 194

Tsang Yau-chiu and others; R v Immigration Tribunal, ex parte (HCt) 500

Tsei Kwei-king and another; R v Attorney General, ex parte (HCt) 686

Tsoi Yiu-cheong, R v (CA) 356

United States of America, Re; Thanat Phaktiphat and the Government of the (HCt) 652

United States of America and another (No 2), Re Thongchai Sanguandikul and the Government of the (CA) 768

Wang Shih-hung, R v (CA) 430

Wong Sau-chuen, R v (CA) 129

Wong Sik-ming, R v (DCt) 488

Wong Wai, R v (Mag) 245

Yau Chi-keung, R v (CA) 453

Yeung Chi-chiu and Fu Kam-wing, R v (DCt) 667

Yin Xiang-jiang; R v Director of Immigration, ex parte (CA) 265

Yu Yem-kin, R v (HCt) 75

Yung Tak-lam, Philip v Governor [Christopher Patten] and others (HCt) 885

Cases and Other Materials Considered in Volume 4 Parts 1 to 4

Cases

Albert and Le Compte v Belgium, European Court of Human Rights, Judgment of 10 February 1983, Series A, No 58, 5 EHRR 533 168

Alexander Machinery (Dudley) Ltd v Crabtree [1974] ICR120 500

American Cyanamid Co v Ethicon Ltd [1975] AC 396 274

Amin; R v Immigration Appeal Tribunal, ex parte Mohd [1992] Imm AR 367 500

Anisminic v Foreign Compensation Commission [1969] 2 AC 147*ARC Properties Ltd; R v Secretary of State for the Environment, ex parte*, CO/1837/89, Times Law Reports, 5 December 1991 400,768

Arthur Yates & Co v The Vegetable Seeds Committee (1946) 72 CLR 37 562

Asghar; R v Governor of Richmond Remand Centre, ex p [1971] 1 WLR 129 194

Ashingdale v United Kingdom, European Court of Human Rights, Judgment of 28 May 1985, Series A, No 93, 7 EHRR 528 908

Asia Dyeing Co Ltd and others v The Authority (appointed under the Air Pollution Control Ordinance, Cap 311) [1990] HKLR 263 917

Associated Provincial Picture Houses Ltd v Wednesbury Corporation [1948] 1 KB 223 472

Attorney General of the Gambia v Jobe [1984] AC 689 562

Attorney General v Bui Thi Ngoan and others (No 1) (1993) 4 HKPLR 824 601

Attorney General v C C Tse (Estate) Ltd [1982] HKLR 7 832

Attorney General v Charles Cheung Wai-bun (1993) 3 HKPLR 194

Attorney General v Fong Chin-yue (1994) 4 HKPLR 430, [1995] 1 HKC 21 466

Attorney General v Lee Kwong-kut (1991) 1 HKPLR 337 (Mag) 186

Attorney General v Lee Kwong-kut (1992) 2 HKPLR 94, [1992] 2 HKCLR 76 (CA) 186
Attorney General v Lee Kwong-kut (1993) 3 HKPLR 72, [1993] 2 HKCLR 186, [1993] AC 951 75,115,186,356,375,581,592,601,621,650,716,813
*Attorney General v Leung Hung-hang (1984) CA, No 19 of 1*983, 12 March 1983 621
Attorney General v Lo Chak-man (1993) 3 HKPLR 72, [1993] 2 HKCLR 186, [1993] AC 951 75,115,186,356,375, 581,592,601,621,650,716,813
Attorney General v Lo Man-cheuk [1980] HKLR 687 581
Attorney General v Ma Chiu-keung [1988] 2 HKLR 64 677
Attorney General v Pham Si Dung (No 1) (1993) 4 HKPLR 799 824,837
Attorney General v Pham Si Dung (No 2) (1993) 4 HKPLR 813 824,837,908
Attorney General, Cho Shu-wah v (1994) 4 HKPLR 514 514
Attorney General, Lai Man-yau v (No 2) [1978] HKLR 546 686
Attorney General, Lam Yuk-ming and others v [1980] HKLR 815 854
Attorney General; R v Evening Standard Company Limited, ex parte, The Times, 3 November 1976 488
Attorney-General and Puttick, Puttick v [1979] 3 All ER 463 481
Attorney-General of Hong Kong, Gammon (Hong Kong) Ltd v [1985] AC 1 430,601,621
Attorney-General v Guardian Newspapers [1992] 3 All ER 38, [1992] 1 WLR 874 466
Attorney-General v Melhado Investment Ltd [1983] HKLR 327 686

B (A Minor) (Wardship: Medical Treatment); Re [1981] 1 WLR 1421 793
Balint, United States v, 258 US 250, 66 L Ed 604 (1922) 430
Barnet London Borough Council, ex parte Nilish Shah; R v [1983] 2 AC 309 400
Barnsley and District Licensed Victuallers' Association and another; R v Barnsley Licensing Justices, ex parte [1960] 2 QB 161 298
Bartlam, Evans v [1937] AC 473 860
Beatty v Gillbanks (1882) 9 QBD 308 356
Belfast Corporation v O D Cars Ltd [1960] AC 490 194
Belgian Linguistic Case (No 2), European Court of Human Rights, Judgment of 23 July 1968, Series A, No 6, 1 EHRR 252 601

Belilos v Switzerland, European Court of Human Rights, Judgment of 22 April 1988, Series A, No 132, 10 EHRR 466 43
Bennett v Thatcher; R v Returning Officer for the Parliamentary Constituency of Barnet and Finchley, ex parte, 1983 Court of Appeal Transcript 237, 3 June 1983, unreported 400
Bhatia; R v Immigration Appeal Tribunal, ex parte [1985] Imm AR 50 562
Bodén v Sweden, European Court of Human Rights, Judgment of 27 October 1987, Series A, No 125, 10 EHRR 367 194
Borneman, Wiseman v [1971] AC 297 562
Bostock v Kay (1989) 87 LGR 583 285,298
Bradshar, Re CO/301/83, 28 February 1984 (unreported) 514
Brauchhausen, In re, 18 March 1986, Queen's Bench Division, unreported 860
Brind; R v Home Secretary, ex parte [1991] 1 AC 696 265
Bui Thi Ngoan and others (No 1), Attorney General v (1993) 4 HKPLR 824 832
Bukhari; R v Horsham Justices, ex parte (1981) 74 Cr App R 291 514
Burgess, Butcher and, R v (1991) 7 CRNZ 407 652
Burt v Governor-General [1992] 3 NZLR 672 18
Burton, ex parte Young; R v [1897] 2 QB 468 285
Bushell v Secretary of State for the Environment [1981] AC 75 562
Butcher and Burgess, R v (1991) 7 CRNZ 407 652

C (A Minor) (Wardship: Medical Treatment), Re [1989] 3 WLR 240 793
Caldwell, R v [1982] AC 341 782
Calveley; R v Chief Constable of the Merseyside Police, ex parte [1986] 1 QB 424 523,548
Calvin v Brownlow Carr [1980] AC 574 523
Camborne Justices and another, ex parte Pearce; R v [1955] 1 QB 274,285,298
Campbell and Fell v United Kingdom, European Court of Human Rights, Judgment of 28 June 1984, Series A, No 80, 7 EHRR 165 43,168
Carbolic Smoke Ball Company Limited, The; Carlill v [1892] 1 QB 484 885
Carlill v The Carbolic Smoke Ball Company Limited [1892] 1 QB 484 885
Carltona Ltd v Commissioner of Works and others [1943] 2 All ER 560 129

Carr, Brownlow; Calvin v [1980] AC 574 523
Carwardine, William v (1833) 5 C & P 566 885
Case No 1500 v China, 270th Report of the Committee on Freedom of Association, ILO Doc GB.245/5/8 (1990) paras 287–334; *275th Report of the Committee on Freedom of Association*, ILO Doc. GB.248/7/11 (1990), paras 323–363; *279th Report of the Committee on Freedom of Association*, para. 635) 736
Case No 1599 v China, 268th Report of the ILO Committee on Freedom of Association, para 691 736
Cavanagh, R v [1972] 1 WLR 676 677
Chan Chun-ming, R v [1980] HKLR 785 592
Chan Heung-mui and others; R v Director of Immigration, ex parte (1993) 3 HKPLR 533 324
Charles v Secretary of State for the Home Department [1992] Imm AR 416 159
Chaulk, R v [1990] 3 SCR 1303, 62 CCC (3d) 193 601
Cheng Kin-ping, R v [1982] HKLR 308 621
Cheung Siu-yu, R v [1991] 2 HKLR 142 430
Cheung Wai-bun, Charles, Attorney General v (1993) 3 HKPLR 62 466
Chicago, Gregory v, 394 US 111, 22 L Ed 2d 134 (1969) 356
Chief Constable of the Merseyside Police, ex parte Calveley; R v [1986] 1 QB 424 523,548
China, Case No 1500 v 270th Report of the Committee on Freedom of Association, ILO Doc GB.245/5/8 (1990) paras 287–334; *275th Report of the Committee on Freedom of Association*, ILO Doc. GB.248/7/11 (1990), paras 323–363; *279th Report of the Committee on Freedom of Association*, para. 635 736
China, Case No 1599 v, 268th Report of the ILO Committee on Freedom of Association 736
Cho Shu-wah v Attorney General (1994) 4 HKPLR 514 514
Cholodniuk, R v (1991) 14 WCB (2d) 628 592
Chong Ah-choi, R v (1994) 4 HKPLR 375 581,621
Chorley; R v Hendon RDC, ex parte [1933] 2 KB 696 285
City of Sault Ste Marie, R v (1978) 85 DLR (3d) 161 430
Civil Service Appeal Board, ex parte Cunningham; R v [1991] 4 All ER310 500
Collins v R [1987] 1 SCR 265, 33 CCC (3d) 1 75
Commissioner of Crown Lands v Page [1960] 2 QB 274 194
Commissioner of Inland Revenue and Commissioner of Police, Lee Ma-loi v [1992] 1 HKLR 200 562
Commissioner of Inland Revenue v Lee Lai-ping (1993) 3 HKPLR 141 194,234

Conway, John Patrick; Re (1990) 91 Cr App R 143 514
Cooper; R v Derry Produces Quota Tribunal and Minister of Agriculture, Fisheries and Food, ex parte [1993] COD 276 500
Council of Civil Service Unions v Minister for the Civil Service [1985] AC 374 562
Crabtree, Alexander Machinery (Dudley) Ltd v [1974] ICR120 500
CREEDNZ Inc v Governor-General [1981] 1 NZLR 172 194
Cunningham; R v Civil Service Appeal Board, ex parte [1991] 4 All ER310 500

Daganayasi v Minister of Immigration [1980] 2 NZLR 130 562
Daily Mirror, ex parte Smith; R v [1927] 1 KB 845 488
Dallaglio and another; R v Inner West London Coroner, ex parte [1994] 4 All ER 139 298
Datafin Plc and another; R v Panel on Take-overs and Mergers, ex parte [1987] QB 815 274
Davis, R v (1992) 13 CRR (2d) 101 472
Dayman, Proudman v (1941) 67 CLR 536 430
De Cubber v Belgium, European Court of Human Rights, Judgment of 26 October 1984, Series A, No 86, 7 EHRR 236 168
Dempsey, Lee Fan v (1907) 5 CLR 310 581
Derry Produces Quota Tribunal and Minister of Agriculture, Fisheries and Food, ex parte Cooper; R v [1993] COD 276 500
Dimes v Proprietors of Grand Junction Canal (1852) 3 HL Cas 759 285,298
Director of Immigration and the Refugee Status Review Board, ex parte Do Giau and others; R v [1992] 1 HKLR 287 337
Director of Immigration v Ho Ming-sai and others, R v (1993) 3 HKPLR 157 542
Director of Immigration, ex parte Chan Heung-mui and others; R v (1993) 3 HKPLR 533 324
Director of Immigration, ex parte Ho Ming-sai and others; R v (1993) 3 HKPLR 157 274
Director of Immigration, ex parte Le Tu Phuong; R v (1993) 3 HKPLR 641, [1993] 2 HKLR 303 (HCt) 337
Director of Immigration, ex parte Pan Ze-yan; R v (1993) 3 HKPLR 522 (HCt) 265
Director of Immigration, ex parte Pan Ze-yan; R v (1993) 3 HKPLR 565 (CA) 265

Director of Immigration, ex parte So Kam-cheung and others; R v (1993) 3 HKPLR 253 324
Director of Public Prosecutions, Gold Star Publications Ltd v [1981] 2 All ER 257 901
Director of Public Prosecutions, Myers v [1965] AC 1001 592
Director of Public Prosecutions, Taylor v (1973) 57 Cr App R 915 356
Director of Public Prosecutions, Woolmington v [1935] AC 462 581,601,716
District Judge Lugar-Mawson, ex parte Tse Sun-mui; R v (1993) 3 HKPLR 358 318
Do Giau and others; Director of Immigration and the Refugee Status Review Board, ex parte [1992] 1 HKLR 287 337
Dotterweich, United States of America v 320 US 277, 88 L Ed 48 (1943) 430

East Berkshire Health Authority, ex parte Walsh; R v [1984] 3 WLR 818 854
Edwards, R v [1975] QB 27 581,601
Egan, R v (1993) 3 HKPLR 277, [1993] 1 HKCLR 284 677
Esso Petroleum Co Ltd v Mardon [1975] QB 819 885
Ethicon Ltd, American Cyanamid Co v [1975] AC 396 274
Evans v Bartlam [1937] AC 473 860
Evening Standard Company Limited, ex parte The Attorney General; R v, The Times, 3 November 1976 488
Ex parte Sanders, The Times, 30 May 1994 400,415
Extradition Act 1870, In re; ex parte Treasury Solicitor [1969] 1 WLR 12 860

F Hoffman-La Roche & Co and others v Secretary of State for Trade and Industry [1975] AC 295 194,274
Factortame Ltd and others; R v Secretary of State for Transport, ex parte (No 2) [1991] 1 AC 603 274
Fong Chin-yue, Attorney General v (1994) 4 HKPLR 430, [1995] 1 HKC 21 716
Foreign Compensation Commission, Anisminic v [1969] 2 AC 147 400,768
Fox, Campbell and Hartley v United Kingdom, European Court of Human Rights, Judgment of 30 August 1990, Series A, No 182, 13 EHRR 157 234,621
France, Salabiaku v, European Court of Human Rights, Judgment of 7 October 1988, Series A, No 141-A, 13 EHRR 379 601
Fung Chuen-kan v Government of the United States [1994] 1 HKLR 163 514

Furnell v Whangarei High Schools Board [1973] AC 660 562

Gaisford, R v [1892] 1 QB 381 285,298
Gammon (Hong Kong) Ltd v Attorney General of Hong Kong [1985] AC1 430,601,621
Gibbons v Proctor (1891) 64 LT 594 885
Gill v Carson and Nield [1917] 2 KB 674 62
Gillbanks, Beatty v (1882) 9 QBD 308 356
Ginesi v Ginesi [1948] 1 All ER 373 562
Gold Star Publications Ltd v DPP [1981] 2 All ER 257 901
Golder v United Kingdom, European Court of Human Rights, Judgment of 21 February 1975, Series A, No 18, 57 ILR 200, 1 EHRR 524 917
Gough, R v [1993] AC 646 274,285,298
Gould, Le Lievre v [1893] 1 QB 491 885
Government of Israel and others, Schtraks v [1964] AC 556 514,768,860
Governor of Brixton Prison, ex parte Kolczynski and others; R v [1955] 1 QB 540 860
Governor of Brixton Prison, ex parte Schtraks; R v [1964] AC 556 514,768,860
Governor of Holloway Prison, ex parte Siletti; R v (1902) 20 Cox CC 353 514
Governor of Pentonville Prison and another, ex parte Lee; R v [1993] 3 All ER 504 652
Governor of Pentonville Prison, ex parte Voets; R v [1986] 1 WLR 470 514
Governor of Richmond Remand Centre, ex p Asghar; R v [1971] 1 WLR 129 908
Governor of Winson Green Prison, Birmingham, ex parte Littlejohn; R v [1975] 3 All ER 208 860
Governor, ex parte Reid; R v (1993) 3 HKPLR 430 (HCt) 581
Governor, ex parte Reid; R v (1994) 4 HKPLR 18 (CA) 581
Governor-in-Council, Liew Kar-seng v [1989] 1 HKC 215, [1989] 1 HKLR 607 908
Gray and others; R v West London Coroner, ex parte [1987] 2 All ER 129 782
Greece, Philis v, European Court of Human Rights, Judgment of 27 August 1991, Series A, No 209, 13 EHRR 741 917
Gregory v Chicago, 394 US 111, 22 L Ed 2d 134 (1969) 356
Guardian Newspapers, Attorney General v [1992] 3 All ER 38, [1992] 1 WLR 874 466
Guinness Plc; R v Panel on Take-overs and Mergers, ex parte [1990] 1 QB 146 274,523,562

H v O (Issue of Paternity) [1992] 1 FLR 282 388
Handyside v The United Kingdom (1976) 1 EHRR 737 621
Harrer, R v (1994) 89 CCC (3d) 276 652
Harrow School, Pearlman v [1978] 3 WLR 736 400
Hart, Pepper v [1993] AC 593, [1992] 3 WLR 1032 601,813
Hedley Byrne & Co Ltd v Heller & Partners Ltd [1964] AC 465 885
Heller & Partners Ltd, Hedley Byrne & Co Ltd v [1964] AC 465 885
Hendon RDC, ex parte Chorley, R v [1933] 2 KB 696 265
Hill, Robert F; USA v 768
Ho Ming-sai and others; R v Director of Immigration, ex parte (1993) 3 HKPLR 157, [1993] 2 HKLR 29 274,542,562
Ho Siu-fei and others, R v [1976] HKLR 190 652
Holyhead General Commissioners, ex parte Roberts; R v (1982) 56 TC 127 285
Hopkins, In the matter of Hopkins (1858) El Bl & El 101 285
Horsham Justices, ex parte Bukhari; R v (1981) 74 Cr App R 291 514
Hunt, R v [1974] HKLR 31 581
Hunter v Southam [1984] 2 SCR 145, 11 DLR (4th) 641 75

Immigration Appeal Tribunal, ex parte Bhatia; R v [1985] Imm AR 50 562
Immigration Appeal Tribunal, ex parte Khan (Mahmud); R v [1983] 1 QB 790 500,562
Immigration Appeal Tribunal, ex parte Kumar; R v [1987] 1 FLR 444 562
Immigration Appeal Tribunal, ex parte Mohd Amin; R v [1992] Imm AR 367 500
Immigration Appeal Tribunal, Nadeem Tahir v [1989] Imm AR 98 562
Immigration Tribunal, Lau Tak-pui and others v [1992] 1 HKLR 374 500,548,562
Imperial Tobacco Ltd v Attorney General [1981] AC 718 5
Independent Television Commission, ex parte TSW Broadcasting Ltd; R v, House of Lords, 26 March 1992 562
Inland Revenue Commissioners, ex parte Preston; R v [1985] 1 AC 835 523,548
Inner London Education Authority, ex parte Westminster City Council; R v [1986] 1 WLR 28 837
Inner London Education Authority, Smith and others v [1978] 1 All ER 411 274
Inner West London Coroner, ex parte Dallaglio and another; R v [1994] 4 All ER 139 298

Ireland, Purcell v (1991) 12 HRLJ 254 621

J L Hamman, R v (1863) N R 140 285
Jeffs v New Zealand Dairy Production & Marketing Board [1967] 1 AC 551 194
Jobe, Attorney General of the Gambia v [1984] AC 689 601
John Patrick Conway, Re (1990) 91 Cr App R 143 514
Judge of the City of London Court, The; R v [1892] 1 QB 273 601

Kaplan v United Kingdom, European Commission of Human Rights, Report of 17 July 1980, Application No 7598/76, 21 D & R 5, 4 EHRR 64 5,194,917
Katz v United States, 389 US 347, 19 L Ed 2d 576 (1967) 75
Kay, Bostock v (1989) 87 LGR 583 285,298
Khan; R v Immigration Appeal Tribunal, ex parte (Mahmud) [1983] 1 QB 790 500,562
Khawaja v Secretary of State for the Home Department [1984] AC 74 562
Khuc The Loc, In re Tran Quoc Cuong and [1991] 2 HKLR 312 337
Kioa v Minister for Immigration and Ethnic Affairs (1985) 159 CLR 550 562
Kolczynski and others; R v Governor of Brixton Prison, ex parte [1955] 1 QB 540 860
Kong Cheuk Kwan, R v (1986) 82 Crim App R 18 782
Kumar; R v Immigration Appeal Tribunal, ex parte [1987] 1 FLR 444 562
Kuruma v R [1955] 1 All ER 236 75

Ladd v Marshall [1954] 1 WLR 1489 768
Lai Man-yau v Attorney General (No 2) [1978] HKLR 546 686
Lam Yuk-ming and others v Attorney General [1980] HKLR 815 854
Lambeth Metropolitan Stipendiary Magistrate, ex parte McComb; R v [1983] 1 QB 551 472
Lancashire County Council, ex parte Huddleston, R v [1986] 2 All ER941 500
Langborger v Sweden, European Court of Human Rights, Judgment of 22 June 1989, Series A, No 155, 22 June 1989, 12 EHRR 416 43
Lannon and others, Metropolitan Properties Co (FGC) Ltd v [1969] 1 QB 577 285,298
Lau Shiu-wah, R v (1991) 1 HKPLR 202, [1992] HKDCLR 11 457

Lau Tak-pui and others v Immigration Tribunal [1992] 1 HKLR 374 500,548,562
Lawrence, R v (1981) 73 Crim App R 1 782
Le Lievre v Gould [1893] 1 QB 491 885
Le Tu Phuong; R v Director of Immigration, ex parte (1993) 3 HKPLR 641, [1993] 2 HKLR 303 (HCt) 337
Leary v United States, 395 US 6, 23 L Ed 2d 57 (1969) 115,375
Lee Fan v Dempsey (1907) 5 CLR 310 581
Lee Kwong-kut, Attorney General v (1993) 3 HKPLR 72, [1993] 2 HKCLR 186, [1993] AC 951 75,115,186,356,375,581,592,601,621,650,716,813
Lee Ma-loi v Commissioner of Inland Revenue and Commissioner of Police [1992] 1 HKLR 200 562
Lee; R v Governor of Pentonville Prison and another, ex parte [1993] 3 All ER 504 652
Leeson v General Council of Medical Education and Registration (1889) 43 Ch 366 168
Leigh v Cole (1853) 6 Cox CC 329 75
Leung Hung-hang, Attorney General v (1984) CA, No 19 of 1983, 12 March 1983 621
Li Wing-tat and others, R v [1991] 1 HKLR 731 677
Liangsiriprasert v Government of the United States of America and Another [1990] 3 WLR 606 652
Liew Kar-seng v Governor-in-Council [1989] 1 HKC 215, [1989] 1 HKLR 607 908
Linskey, Harford v [1899] 1 QB 852 400
Littlejohn; R v Governor of Winson Green Prison, Birmingham, ex parte [1975] 3 All ER 208 860
Lloyd and others v McMahon [1987] AC625 500,562
Lo Chak-man , Attorney General v; (1993) 3 HKPLR 72, [1993] 2 HKCLR 186, [1993] AC 951 75,115,186,356,375,581,592,601,621,650,716,813
Lo Chak-man, R v (1992) 2 HKPLR 220 (HCt) 466
Lo Man-cheuk, Attorney General v [1980] HKLR 687 581
Lonrho Plc; R v Secretary of State for Trade and Industry, ex parte [1989] 1 WLR525 500
Luff, R v (1992) 11 CRR (2d) 356 472

Ma Chiu-keung, Attorney General v [1988] 2 HKLR 64 677
Machiya, Takeshi; R v [1990] 1 HKC 73 677
Mackman, O'Reilly v [1983] 2 AC 237 768
Mahadervan v Mahadervan [1963] 2 WLR 271 562
Maher v Musson (1934) 52 CLR 100 430
Man Wai-keung (No 2), R v (1992) 2 HKPLR 164, [1992] 1 HKCLR 89 917

Manchanda v Medical Eye Centre Assn (1986) 131 Sol J 47 523
Mardon, Esso Petroleum Co Ltd v [1975] QB 819 885
Marshall, Ladd v [1954] 1 WLR 1489 768
Martin v Watson [1994] 2 All ER 606 285,298
McCarthy & Stone (Developments) Ltd; R v Richmond Upon Thames London Borough Council, ex parte [1991] 3 WLR 941 548
McCarthy; R v Sussex Justices, ex parte [1924] 1 KB 256 298
McComb; R v Lambeth Metropolitan Stipendiary Magistrate, ex parte [1983] 1 QB 551 472
McMahon, Lloyd and others v [1987] AC625 500,562
Medical Eye Centre Assn, Manchanda v (1986) 131 Sol J 47 523
Melhado Investment Ltd, Attorney-General v [1983] HKLR 327 686
Metropolitan Properties Co (FGC) Ltd v Lannon [1969] 1 QB 577 168,285,298
Millar v Ministry of Transport (1986) 2 CRNZ 216 430
Minister for Immigration and Ethnic Affairs, Kioa v (1985) 159 CLR 550 562
Minister for the Civil Service, Council of Civil Service Unions v [1985] AC 374 562
Minister of Agriculture, Fisheries and Food and others, Padfield and others v [1968] AC997 500
Minister of Home Affairs v Fisher [1980] AC 319 194
Minister of Immigration, Daganayasi v [1980] 2 NZLR 130 562
Minister of Immigration, Tavita v [1994] NZAR 116 265
Ministry of Transport, Millar v (1986) 2 CRNZ 216 430
Mirror Group Newspapers, Rantzen v [1993] 3 WLR 953 265
Mok Wei-tak, R v [1990] 2 AC 333 581
Motor Vehicle Act, Reference re Section 94(2) of the [1985] 2 SCR 486, (1985) 24 DLR (4th) 536, 23 CCC (3d) 289 430
Mughal; R v Secretary of State for the Home Department, ex parte [1974] 1 QB 313 562
Musson, Maher v (1934) 52 CLR 100 430
Myers v Director of Public Prosecutions [1965] AC 1001 592

Nadeem Tahir v Immigration Appeal Tribunal [1989] Imm AR 98 562
Nagy v Weston [1965] 1 WLR 280 62
Nattrass, Re (1994) 4 HKPLR 234 917
Ng Kam-fuk, R v (1992) 2 HKPLR 456, [1993] HKDCLR 29 677

Ng Wai-chung, Re (1983) HCt, MP 2155 of 1983, 12 October 1983, Rhind J 234
Ngan Kai-shui, R v [1973] HKLR 161 621
Nilish Shah; R v Barnet London Borough Council, ex parte [1983] 2 AC 309 400
Norton Tool Co Ltd v Tewson [1973] 1 WLR45 500
Number 1 Poultry Ltd and others, Save Britain's Heritage v [1991] 1 WLR153 500

O'Reilly v Mackman [1983] 2 AC 237 768
O, H v (Issue of Paternity) [1992] 1 FLR 282 388
Oakes, R v [1959] 2 QB 350 601
Oakes, R v [1986] 1 SCR 103, 24 CCC (3d) 321, 26 DLR (4th) 200 601
Oldroyd, Rands v [1959] 1 QB 204 285
Open Door Counselling and Dublin Well Woman v Ireland, European Court of Human Rights, Judgment of 29 October 1992, Series A, No 246, 15 EHRR 244 5
Osmond, Public Service Board of New South Wales v (1985) 159 CLR 656 500,548,562

Padfield and others v Minister of Agriculture, Fisheries and Food and others [1968] AC997 129,500
Pan Ze-yan; R v Director of Immigration, ex parte (1993) 3 HKPLR 522 (HCt) 265
Pan Ze-yan; R v Director of Immigration, ex parte (1993) 3 HKPLR 565 (CA) 265
Panel on Take-overs and Mergers, ex parte Datafin Plc and another; R v [1987] QB 815 274
Panel on Take-overs and Mergers, ex parte Guinness Plc; R v [1990] 1 QB 146, [1989] 1 All ER 509 274,523,562
Parsley, Sweet v [1970] AC 132 430,621
Pearce; R v Camborne Justices and another, ex parte [1955] 1 QB 274,285,298
Pepper v Hart [1993] AC 593, [1992] 3 WLR 1032 194,601,813
Pham Si Dung (No 1), Attorney General v (1993) 4 HKPLR 799 824,837
Pham Si Dung (No 2), Attorney General v (1993) 4 HKPLR 813 824,837,908
Philis v Greece, European Court of Human Rights, Judgment of 27 August 1991, Series A, No 209, 13 EHRR 741 917
Piersack v Belgium, European Court of Human Rights Judgment of 1 October 1982, Series A, No 53, 5 EHRR 169 168

Preston-Jones v Preston-Jones [1951] AC 391 562
Preston; R v Inland Revenue Commissioners, ex parte [1985] 1 AC 835 523,548
Price v Humphries [1958] 2 QB 353 33
Proctor, Gibbons v (1891) 64 LT 594 885
Proprietors of Grand Junction Canal, Dimes v (1852) 3 HL Cas 759 285,298
Proudman v Dayman (1941) 67 CLR 536 430
Public Service Board of New South Wales v Osmond (1985) 159 CLR 656 500,548,562
Purcell v Ireland (1991) 12 HRLJ 254 621
Puttick v Attorney-General and Puttick [1979] 3 All ER 463 481

R v Angel (1968) 52 Cr App R 280 33
R v Barnet London Borough Council, ex parte Nilish Shah [1983] 2 AC 309 400
R v Barnsley Licensing Justices, ex parte Barnsley and District Licensed Victuallers' Association and another [1960] 2 QB 167 168,298
R v Broadhurst (1918) 13 Cr App R 125 38
R v Burgess, Butcher and (1991) 7 CRNZ 407 652
R v Burton, ex parte Young [1897] 2 QB 468 285
R v Butcher and Burgess (1991) 7 CRNZ 407 652
R v Caldwell [1982] AC 341 782
R v Camborne Justices, ex parte Pearce [1955] 1 QB 41 274,285,298
R v Cavanagh [1972] 1 WLR 676 677
R v Chan Chun-ming [1980] HKLR 785 592
R v Chan Fu-kui [1986] HKLR 967 18
R v Chan Kein-wing(1993) 3 HKPLR 598, [1994] 1 HKLR41 56
R v Chaulk [1990] 3 SCR 1303, 62 CCC (3d) 193 105,601
R v Cheng Kin-ping [1982] HKLR 308 621
R v Cheung Siu-yu [1991] 2 HKLR 142 430
R v Chief Constable of the Merseyside Police, ex parte Calveley [1986] 1 QB 424 548
R v Chief Constable, ex parte Calveley [1986] 1 QB 424 523
R v Chief Immigration Officer, Heathrow Airport, ex parte Suresh Kumar, The Times, 22 April 1986 159
R v Cholodniuk (1991) 14 WCB 2d 628 592
R v Chong Ah-choi (1994) 4 HKPLR 375 581,621
R v City of Sault Ste Marie (1978) 85 DLR (3d) 161 430
R v Civil Service Appeal Board, ex parte Cunningham [1991] 4 All ER310 500
R v Collins [1987] 1 SCR 265, 33 CCC (3d) 1 75

R v Currency Brokers (HongKong) Ltd [1987] HKLR 1136 186
R v Daily Mirror, ex parte Smith [1927] 1 KB 845 488
R v Davis (1992) 13 CRR (2d) 101 472
R v Derry Produces Quota Tribunal and Minister of Agriculture, Fisheries and Food, ex parte Cooper [1993] COD 276 500
R v Director of Immigration and the Refugee Status Review Board, ex parte Do Giau and others [1992] 1 HKLR 287 337
R v Director of Immigration, ex parte Chan Heung-mui and others (1993) 3 HKPLR 533 324
R v Director of Immigration, ex parte Ho Ming-sai and others (1993) 3 HKPLR 157 274,542,562
R v Director of Immigration, ex parte Le Tu Phuong (1993) 3 HKPLR 641, [1993] 2 HKLR 303 (HCt) 159,337
R v Director of Immigration, ex parte Pan Ze-yan (1993) 3 HKPLR 522 (HCt) 265
R v Director of Immigration, ex parte Pan Ze-yan (1993) 3 HKPLR 565 (CA) 265
R v Director of Immigration, ex parte So Kam-cheung and others (1993) 3 HKPLR 253 324
R v District Judge Lugar-Mawson, ex parte Tse Sun-mui (1993) 3 HKPLR 358 318
R v East Berkshire Health Authority, ex parte Walsh [1984] 3 WLR 818 854
R v Edwards [1975] QB 27 581,601
R v Egan (1993) 3 HKPLR 277, [1993] 1 HKCLR 284 677
R v Evening Standard Company Limited, ex parte The Attorney General, The Times, 3 November 1976 488
R v Faisal (1993) 3 HKPLR 220 56
R v Gaisford [1892] 1 QB 381 285,298
R v Gough [1993] AC 646 43,168,274,285,298
R v Governor of Brixton Prison, ex parte Kolczynski and others [1955] 1 QB 540 860
R v Governor of Brixton Prison, ex parte Schtraks [1964] AC 556 514,768,824
R v Governor of Holloway Prison, ex parte Siletti (1902) 20 Cox CC 353 514
R v Governor of Pentonville Prison and another, ex parte Lee [1993] 3 All ER 504 652
R v Governor of Pentonville Prison, ex parte Voets [1986] 1 WLR 470 514
R v Governor of Richmond Remand Centre, ex p Asghar [1971] 1 WLR 129 908
R v Governor of Winson Green Prison, Birmingham, ex parte Littlejohn [1975] 3 All ER 208 860

R v Governor, ex parte Reid (1993) 3 HKPLR 430 (HCt) 581
R v Governor, ex parte Reid (1994) 4 HKPLR 18 (CA) 581
R v Harrer (1994) 89 CCC (3d) 276 652
R v Hendon RDC, ex parte Chorley [1933] 2 KB 696 285
R v Ho Siu-fei and others [1976] HKLR 190 652
R v Holyhead General Commissioners, ex parte Roberts (1982) 56 TC 127 285
R v Horsham Justices, ex parte Bukhari (1981) 74 Cr App R 291 514
R v Hui Lan-chak; R v Leung Kwok-sing (1993) 3 HKPLR 184 33,129
R v Hunt [1974] HKLR 31 581
R v Immigration Appeal Tribunal, ex parte Bhatia [1985] Imm AR 50 562
R v Immigration Appeal Tribunal, ex parte Khan (Mahmud) [1983] 1 QB790 500,562
R v Immigration Appeal Tribunal, ex parte Kumar [1987] 1 FLR 444 562
R v Immigration Appeal Tribunal, ex parte Mohd Amin [1992] Imm AR 367 500
R v Independent Television Commission, ex parte TSW Broadcasting Ltd, House of Lords, 26 March 1992 562
R v Inland Revenue Commissioners, ex parte Preston [1985] 1 AC 835 523,548
R v Inner London Education Authority, ex parte Westminster City Council [1986] 1 WLR 28 837
R v Inner West London Coroner, ex parte Dallaglio and another [1994] 4 All ER 139 298
R v J L Hamman (1863) N R 140 285
R v Judge of the City of London Court, The [1892] 1 QB 273 601
R v Keyn (1876) 2 Ex D 63 129
R v Ko Chi-yuen (1992) 2 HKPLR 311, [1993] 2 HKCLR 101 (HCt) 152
R v Kong Cheuk Kwan (1986) 82 Crim App R 18 782
R v Kuruma [1955] All ER 236 75
R v Lam Chi-ming [1991] 2 HKLR 191 75
R v Lam Shui-kam [1968] HKLR 25 33
R v Lambeth Metropolitan Stipendiary Magistrate, ex parte McComb [1983] 1 QB 551 472
R v Lancashire County Council, ex parte Huddleston [1986] 2 All ER941 500
R v Lau Shiu-wah (1991) 1 HKPLR 202, [1992] HKDCLR 11 457
R v Law Society, ex parte Curtin, The Times, 3 December 1993 129

R v Lawrence (1981) 73 Crim App R 1 782
R v Leatham (1861) 8 Cox C C 198 75
R v Li Wing-tat and others [1991] 1 HKLR 731 677
R v Lo Chak-man(1992) 2 HKPLR 220 466
R v Luff (1992) 11 CRR (2d) 356 472
R v Man Bing-chou (1993) CA, Crim App No 383 of 1990, 30 March 1993 38
R v Man Wai-keung (No 2) (1992) 2 HKPLR 164, [1992] 2 HKCLR 207 62,917
R v Marsh and others (1935) 25 Cr App R 1949 186
R v Mitchell[1977] 1 WLR753 186
R v Mok Wei-tak [1990] 2 AC 333 581
R v Ng Hon-kit and another [1991] 1 HKLR 56 18
R v Ng Kam-fuk (1992) 2 HKPLR 456, [1993] HKDCLR 29 677
R v Ng Wai-ming [1980] HKLR 228 75
R v Ngan Kai-shui [1973] HKLR 161 621
R v Noble (1984) 14 DLR (4th) 216, 16 CCC (3d) 146 75
R v Oakes [1959] 2 QB 350 601
R v Oakes [1986] 1 SCR 103, 24 CCC (3d) 321, 26 DLR (4th) 200 601
R v Obscene Articles Tribunal, ex parte Freeman Holdings Ltd (1993) 3 HKPLR 604 5
R v Panel on Take-overs and Mergers, ex parte Datafin Plc and another [1987] QB 815 274
R v Panel on Take-overs and Mergers, ex parte Guinness Plc [1990] 1 QB 146 274,523,562
*R v Pearce (*1981) 72 Cr App R 295 115
R v Quinn [1990] Crim LR 581 75
R v Racette (1988) 48 DLR (4th) 412, 39 CCC (3d) 289 75
R v Ramsden [1972] Crim LR 547 186
R v Rand and others (1866) LR 1 QB 229 285,298
R v Returning Officer for the Parliamentary Constituency of Barnet and Finchley, ex parte Bennett v Thatcher, unreported, 1983 Court of Appeal Transcript 237, 3 June 1983 400
R v Richmond Upon Thames London Borough Council, ex parte McCarthy & Stone (Developments) Ltd [1991] 3 WLR 941 548
R v Robinson (No 2) (1991) 65 ALJR 644, 55 A Crim R 318 38
R v Secretary of State for the Environment, ex parte ARC Properties Ltd, CO/1837/89, Times Law Reports, 5 December 1991 562
R v Secretary of State for the Home Department, ex parte Brind [1991] 1 AC 696 265

R v Secretary of State for the Home Department, ex parte Mughal [1974] 1 QB 313 562
R v Secretary of State for the Home Department, ex parte Oladehinde [1991] 1 AC 254 129
R v Secretary of State for the Home Department, ex parte Sivakumaran [1988] 1 AC 958 337
R v Secretary of State for the Home Department, ex parte Turkoglu [1988] QB 398 159
R v Secretary of State for Trade and Industry, ex parte Lonrho Plc [1989] 1 WLR525 500
R v Secretary of State for Transport, ex parte Factortame Ltd and others (No 2) [1991] 1 AC 603 274
R v Securities and Futures Commission, ex parte Lee Kwok-hung (1993) 3 HKPLR 39, [1993] 2 HKLR 51 75
R v Shun Shing Construction & Engineering Co Ltd [1993] 1 HKCLR 69 601
R v Sin Yau-ming (1991) 1 HKPLR 88, [1992] 1 HKCLR 127 75,105,194,356,457,581,621,917
R v So Man-king [1989] 1 HKLR 142 245
R v Sussex Justices, ex parte McCarthy [1924] 1 KB 256 168,298
R v Sykes (1875) 1 QBD52 500
R v Sze Tak-hung [1991] 1 HKLR 109 18
R v Takeshi Machiya [1990] 1 HKC 73 677
R v The Cheltenham Commissioners (1841) 1 QB 467 285
R v The Manchester, Sheffield and Lincolnshire Railway Company (1867) LR 2 QB 336 285
R v Thomas [1990] 1 SCR 713, (1990) 75 CR (3d) 352 186
R v Tolson (1889) 23 QBD 168 430
R v Town Planning Board, ex parte Auburntown Ltd (1994) 4 HKPLR 194 43
R v Tran Viet Van (1992) 2 HKPLR 237, [1992] 2 HKCLR 184 497
R v Wan Siu-kei (1993) 3 HKPLR 228 56
R v Watson [1980] 2 All ER 293 592
R v West London Coroner, ex parte Gray and others [1987] 2 All ER 129 782
R v Whyte [1988] 2 SCR 3, 51 DLR (4th) 481, 42 CCC (3d) 97 601
R v Wigman [1987] 1 SCR 246, 33 CCC (3d) 97 186
R v William Hung (1993) 3 HKPLR 328 466
R v Wong Hiu-chor (1992) 2 HKPLR 288, [1993] 1 HKCLR 107 105
R v Wong Yan-fuk (1993) 3 HKPLR 341 152
R v Wyatt (1992) 12 CRR (2d) 328 472

R v Yu Wai-wut(1994) HCt, Mag App 1012 of 1993, 22 March 1994, Jones J 186
Rand and others, R v (1866) LR 1 QB 230 285,298
Rands v Oldroyd [1959] 1 QB 204 285
Rantzen v Mirror Group Newspapers [1993] 3 WLR 953 265
Re B (A Minor) (Wardship: Medical Treatment) [1981] 1 WLR 1421 793
Re C (A Minor) (Wardship: Medical Treatment) [1989] 3 WLR 240 793
Reference re Section 94(2) of the Motor Vehicle Act [1985] 2 SCR 486, (1985) 24 DLR (4th) 536, 23 CCC (3d) 289 430
Reid, Re (1991) 1 HKPLR 275 581
Reid; R v Governor, ex parte (1993) 3 HKPLR 430 (HCt) 581
Reid; R v Governor, ex parte (1994) 4 HKPLR 18 (CA) 581
Returning Officer for the Parliamentary Constituency of Barnet and Finchley, ex parte Bennett v Thatcher; R v, unreported, 1983 Court of Appeal Transcript 237, 3 June 1983 400
Richmond Upon Thames London Borough Council, ex parte McCarthy & Stone (Developments) Ltd; R v [1991] 3 WLR 941 548
Rio Tinto Zinc Corporation and others v Westinghouse Electric Corporation [1978] AC 547 860
Roberts; R v Holyhead General Commissioners, ex parte (1982) 56 TC 127 285

S, In re (A Barrister) [1981] 1 QB 683 523
Salabiaku v France, European Court of Human Rights, Judgment of 7 October 1988, Series A, No 141-A, 13 EHRR 379 601
Sanders, Ex parte, The Times, 30 May 1994 400,415
Sanguandikul, Re (1992) 2 HKPLR 619, [1994] 1 HKCLR 1 652
Save Britain's Heritage v Number 1 Poultry Ltd and others [1991] 1 WLR153 500
Schtraks v Government of Israel and others [1964] AC 556 514,768,860
Schtraks; R v Governor of Brixton Prison, ex parte [1964] AC 556 514,768,860
Secretary of State for the Environment, Bushell v [1981] AC 75 562
Secretary of State for the Environment, ex parte ARC Properties Ltd; R v, CO/1837/89, Times Law Reports, 5 December 1991 562

Secretary of State for the Home Department, ex parte Mughal; R v [1974] 1 QB 313 562
Secretary of State for the Home Department, Khawaja v [1984] AC 74 562
Secretary of State for the Home Department, ex parte Brind; R v [1991] 1 AC 696 265
Secretary of State for the Home Department, ex parte Sivakumaran; R v [1988] 1 AC 958 337
Secretary of State for Trade and Industry, ex parte Lonrho Plc; R v [1989] 1 WLR525 500
Secretary of State for Trade and Industry, F Hoffman-La Roche & Co AG and others v [1975] AC 295 274
Secretary of State for Transport, ex parte Factortame Ltd and others (No 2); R v [1991] 1 AC 603 274
Section 94(2) of the Motor Vehicle Act, Reference re [1985] 2 SCR 486, (1985) 24 DLR (4th) 536, 23 CCC (3d) 289 430
Shun Shing Construction & Engineering Co Ltd, R v [1993] 1 HKCLR 69 601
Siletti; R v Governor of Holloway Prison, ex parte (1902) 20 Cox CC 353 514
Sin Yau-ming, R v (1991) 1 HKPLR 88, [1992] 1 HKCLR 127 75,105,194,356,457,581,621,917
Singway Co Ltd v Attorney General [1974] HKLR 275 194
Sivakumaran; R v Home Secretary, ex parte [1988] 1 AC 958 337
Smith and others v Inner London Education Authority [1978] 1 All ER 411 274
Smith; R v Daily Mirror, ex parte [1927] 1 KB 845 488
Smittachartch, Suthipong and the United States of America, Re (1992) 2 HKPLR 249, [1993] 1 HKLR 93 652
So Kam-cheung and others; Director of Immigration, ex parte (1993) 3 HKPLR 253 324
Southend-On-Sea Corporation v Hodgson [1962] 1 QB 416 194
Sunday Times v The United Kingdom (1979) 2 EHRR 245 621
Sussex Justices, ex parte McCarthy; R v [1924] 1 KB 256 298
Suthipong Smittachartch and the United States of America, Re (1992) 2 HKPLR 249, [1993] 1 HKLR 93 652
Sweet v Parsley [1970] AC 132 430,621
Sykes, R v (1875) 1 QBD525 500

Tam Hing-yee v Wu Tai-wai (1991) 1 HKPLR 261, [1992] 1 HKLR 185 637

Tavita v Minister of Immigration [1994] NZAR 116 265
Taylor v DPP (1973) 57 Cr App R 915 256
Tewson, Norton Tool Co Ltd v [1973] 1 WLR45 500
Thatcher v, Bennett; R v Returning Officer for the Parliamentary Constituency of Barnet and Finchley, ex parte, unreported, 1983 Court of Appeal Transcript 237, 3 June 1983 400
The Authority (appointed under the Air Pollution Control Ordinance, Cap 311), Asia Dyeing Co Ltd and others v [1990] HKLR 263 472
The Cheltenham Commissioners, R v (1841) 1 QB 467 285
The Manchester, Sheffield and Lincolnshire Railway Company, R v (1867) LR 2 QB 336 285
Thomson Newspapers v Director of Investigation [1990] 1 SCR 425, 67 DLR (4th) 161 75
Tolson, R v (1889) 23 QBD 168 430
Tran Quoc Cuong and Khuc The Loc, In re [1991] 2 HKLR 312 159,337
Tran Viet Van, R v (1992) 2 HKPLR 237, [1992] 2 HKCLR 184 497
Tre Traktörer Aktiebolag v Sweden, European Court of Human Rights, Judgment of 7 July 1989, Series A, No 159, 13 EHRR 309 194
Treasury Solicitor; In re Extradition Act 1870, ex parte [1969] 1 WLR 12 860
Tse Sun-mui; R v District Judge Lugar-Mawson, ex parte (1993) 3 HKPLR 358 129,318
TSW Broadcasting Ltd; R v Independent Television Commission, ex parte, House of Lords, 26 March 1992 562
Turkoglu; R v Secretary of State for the Home Department, ex parte [1988] QB 398 159

United Kingdom, Ashingdale v, European Court of Human Rights, Judgment of 28 May 1985, Series A, No 93, 7 EHRR 528 917
United Kingdom; Fox, Campbell and Hartley v (1990) 13 EHRR 157 621
United Kingdom, Golder v, European Court of Human Rights, Judgment of 21 February 1975, Series A, No 18, 57 ILR 200, 1 EHRR 524 917
United Kingdom, Handyside v (1976) 1 EHRR 737 621
United Kingdom, Kaplan v, European Commission of Human Rights, Report of 17 July 1980, Application No 7598/76, 21 D & R 5, 4 EHRR 64 917
United Kingdom, Sunday Times v (1979) 2 EHRR 245 621

United States v Balint, 258 US 250, 66 L Ed 604 (1922) 430
United States v Dotterweich, 320 US 277, 88 L Ed 48 (1943) 430
United States, Government of; Fung Chuen-kan v [1994] 1 HKLR 163 514
United States v Gainey, 380 US 63, 13 L Ed 2d 658 (1965) 105
United States v Robert F Hill 768
United States, Leary v, 395 US 6, 23 L Ed 2d 57 (1969) 375
United States, Government of the, and another; Liangsiriprasert v [1990] 3 WLR 606 652
United States of America, Suthipong Smittachartch and the; Re (1992) 2 HKPLR 249, [1993] 1 HKLR 93652 652

Voets; R v Governor of Pentonville Prison, ex parte [1986] 1 WLR 470 514

Walsh; R v East Berkshire Health Authority, ex parte [1984] 3 WLR 818 854
Watson, Martin v [1994] 2 All ER 606 285,298
Watson, R v [1980] 2 All ER 293 592
Wednesbury Corporation, Associated Provincial Picture Houses Ltd v [1948] 1 KB 223 562
West London Coroner, ex parte Gray and others; R v [1987] 2 All ER 129 782
Westinghouse Electric Corporation, Rio Tinto Zinc Corporation and others v [1978] AC 547 860
Westminster City Council; R v Inner London Education Authority, ex parte [1986] 1 WLR 28 837
Whangarei High Schools Board, Furnell v [1973] AC 660 562
Whyte, R v [1988] 2 SCR 3, 51 DLR (4th) 481, 42 CCC (3d) 97 601
William Hung, R v (1993) 3 HKPLR 328 466
Williams v Carwardine (1883) 5 C & P 566 885
Wiseman v Borneman [1971] AC 297 562
Wong Pun-cheuk v Medical Council of Hong Kong and the Attorney General [1964] HKLR 47 168
Woolmington v DPP [1935] AC 462 581,601,716
Wright v Nicholson [1970] 1 WLR 142 115
Wu Tai-wai, Tam Hing-yee v (1991) 1 HKPLR 261, [1992] 1 HKLR 185 637
Wyatt, R v (1992) 12 CRR (2d) 328 472

Hong Kong Legislation

Affiliation Proceedings Ordinance (Cap 183)
s 4 388
s 5 388
Air Pollution Control Ordinance (Cap 311)
s 9 472

Boundary and Election Commission Ordinance (Cap 432)
s 7 400
s 7(1)(b) 415
s 7(1)(j) 415
s 24(1) 415
Boundary and Election Commission (Electoral Procedure) (Geographical Constituencies) Regulations (Cap 432, sub leg)
reg 9(3)(c) 415
reg 9(7) 400,415
Buildings Ordinance (Cap 123)
s 14(1) 43
s 16 194
s 21(1) 43
s 24(1) 43
s 26 43
s 26A 43
s 27(1) 43
s 27(2) 43
s 27A 43
s 40(1) 43
s 43(2) 43
s 44 43
s 45 43
First Schedule, r 1 43
First Schedule, r 2 43

Civil Service Regulations, reg 1291 854
Control of Obscene and Indecent Articles Ordinance (Cap 390)
s 2 5
s 10(1) 5
s 15(1) 5
s 15(5) 5
s 18 5
s 19(2) 5
s.21(1)(b) 901
s 22 5
s 24 5

s 27 5
s.29(1) 901
s 29(2) 5
s.30 901
s 33 5
Control of Obscene and Indecent Articles Rules (Cap 390 sub leg)
r 7(2) 5
Crimes (Amendment) Ordinance 1992 (No 49 of 1992) 453
Crimes Ordinance (Cap 200)
s 23(c) 318
s 23A 33
s 23B 33
s 23C 33,115
s 23C(2) 129
s 75 56
s 76(1) 56,453
s 76(2) 56,453
s 76A(1) 453
s 100 56
Criminal Law (Amendment) Ordinance 1990 (No 89 of 1990) 33
s 5 129
Criminal Procedure Ordinance (Cap 221)
s 37 813
s 51(2) 115
s 63 245
s 65B 245
s 65C 245
s 65D 813
s 81B 33
s 82 318
s 83A 115
s 83E 318
s 83E(1) 318
s 90 621
s 91 621
s 122 488
s 123 488

Dangerous Drug (Amendment) (No 2) Ordinance (No 52 of 1992)
s 8 497
Dangerous Drugs Ordinance (Cap 134)
s 6(1)(a) 152
s 7 497
s 7(1) 581
s 47(1) 497

s 47(2) 497
s 52 75
Dangerous Drugs Regulations (Cap 134 sub leg)
reg 15 168
Dental Registration Ordinance (Cap 156) 43
District Court Ordinance (Cap 336)
s 20 488
s 60(1) 500
s 83 115
Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405)
s 3(6) 152
s 4(2) 152
s 4(3) 152
s 25 466
Dutiable Commodities Ordinance (Cap 109) 716
s 2(1) 430
s 3 430
s 17(1) 430
s 17(2) 430
s 17(6) 430
s 17(8) 430
s 40 430
s 46 430

Electoral Provisions (Procedure) Regulations (Cap 367, sub leg)
reg 3 415
reg 6 415
Electoral Provisions Ordinance (Cap 367)
s 18(2) 400,415
s 24 415
s 30 400,415
s 30(1)(a)(iii) 415
s 30(2) 415
s 31 400,415
s 37 400
s 37(1) 415
s 37(1)(a) 400
s 37(1)(b) 400
s 37(1)(c) 415
Evidence Ordinance (Cap 8)
s 22A(1) 592
s 22A(2) 592
s 22A(3) 592
s 22A(7) 592
s 37 768

s 74 860
s 77B(3) 860
s 81(1) 837

Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240)
s 3A(4) 62
s 3B(4) 62
Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237)
s 3(2) 62
s 4 62
s 7(1) 62
s 14(1) 62
s 14(2) 62
s 20(1) 62
s 23(1) 62
s 24 62

Gambling Ordinance (Cap 148)
s 2 105
s 19 105
s 23 105
Guardianship of Minors Ordinance (Cap 13)
s 10 388
s 21 388

Hong Kong Bill of Rights Ordinance (Cap 383) 415,400
s 2(3) 592
s 3 621
s 3(1) 592,917
s 3(2) 43,168, 186, 243,375,430,457,581,601,650,917
s 6 466,488
s 6(1) 75
s 7 481,637
s 7(1) 637
s 8 (Hong Kong Bill of Rights) 481
art 1 324
art 3 854
art 5 18,75
art 5(1) 234,430,813
art 5(3) 234
art 8 234,917
art 10 5,18,43,62,168,194,234,400,466,472,488,581,637,677,917
art 11 234,601
art 11(1) 18,62,105,115,186, 245,375,430,457,466,472,581,716

art 11(2)(b) 472
art 11(2)(e) 245,813,592,677,908
art 11(2)(g) 581
art 12(1) 56,453
art 14 43,75,324,481,562
art 14(1) 324
art 15 75
art 15(4) 324
art 16 5,324,637
art 16(2) 621
art 16(3) 621
art 17 356
art 19 481,542,562
art 20 388,542
art 20(1) 324
art 21 415
art 22 62,75,234,324,388,400,430,481,601
art 23 481
s 11 324,542,562
Hong Kong Bar Association, By-laws, art 2 637
Hong Kong Bar Association, Code of Conduct, paras 10(a), 101 637
Hong Kong Code on Takeovers and Mergers (Hong Kong: Securities Commission, rev'd ed, 1981) 298
Hong Kong Letters Patent 1917–1993 art XV 18
Hong Kong Letters Patent 1991 (No 2) 324

Immigration (Unauthorized Entrants) Order (Cap 115 sub leg) para 2(1)(aa) 115
Immigration (Vietnamese Migrants)(Detention Centres) Rules (Cap 115 sub leg)
r 28(1) 159
r 28(2) 159
Immigration Amendment (No 2) Bill 1979 813
Immigration Ordinance (Cap 115)
Part IIIA 337
s 4(1)(a) 159,337
s 7(2) 481
s 13 324,481,562,908
s 13A(1) 337
s 13D 667
s 13D(1) 159,337,799,813, 832,837
s 13D(1) 159
s 13D(1) 337
s 13E 799,813,824
s 13E(1) 832,837

s 13F 337
s 13F(1) 159,337
s 13F(5) 337
s 13F(8) 337
s 19 324,481
s 19(1)(b) 667
s 32(4) 908
s 32(4)(a) 799,813,824,832,837
s 32(4)(b) 799,813,824,832,837
s 35(1) 837
s 36 908
s 36(1) 481,824,837
s 37(1)(a) 129
s 37A 115
s 37B 115
s 37C(1) 33
s 37D 115
s 37K(1) 115
s 37L 33,115,129
s 38(1)(b) 245,908
s 38A 716
s 38A(2) 601
s 38A(3) 601,716
s 42(2)(a) 453
s 53(a) 324
s.53A-53G 500
Import and Export Ordinance (Cap 60)
s 18A 105
s 35A 105
Independent Commission Against Corruption Ordinance (Cap 204)
s 12(b)(i) 621
Inland Revenue Ordinance (Cap 112) 234
Interpretation and General Clauses Ordinance (Cap 1)
s 2(1) 129
s 3 115
s 3(1)(b) 194
s 19 194,813
s 34(1) 194
s 34(2) 194
s 39(1) 356
s 63 129
Schedule 2 115

Legal Practitioners Ordinance (Cap 159) 43
s 35A(3) 637

Lifts and Escalators (Safety) Ordinance (Cap 327)
s 8A 168
s 9 168
s 11E(1) 168
s 11E(2) 168
s 11E(3) 168
s 11F 168
s 11G 168
s 11I 168

Magistrates Ordinance (Cap 227)
s 68 62
s.85(2) 768
s 86(4) 472
s 118(1)(d) 105,186,356,375,601
Marriage Ordinance (Cap 181)
s 6 481
s 7 481
s 27 481
Medical Practitioners (Registration and Disciplinary Procedure) Regulations (Cap 161 sub leg), regs 11, 12, 16, 22 548
Medical Registration Ordinance (Cap 161) 548
s 3 168

Parent and Child Ordinance (Cap 429)
s 6 388
s 13 388
Police Force Ordinance (Cap 232)
s 10 356
s 50(7) 75
s 63 908
Prevention of Bribery Ordinance (Cap 201)
s 3 621
s 4 621
s 4(2)(a) 677
s 7 621
s 10(1)(a) 581
s 10(1)(b) 18,686
s 13 621
s 17A 234,917
s 17B 234,917
s 30 621
s 33 621

Prison Rules (Cap 234 sub leg)
r 69 18
Public Order Ordinance (Cap 245)
s 2 375
s 8 356
s 13 356
s 18 356
s 33 375,908

Road Traffic (Parking) Regulations
reg 2(1) 62
Road Traffic Ordinance (Cap 374)
s 12 62
Rules of the Supreme Court (Cap 4 sub leg)
O 3, r 5 562
O 8, r 3(6) 837
O 15, r 16 885
O 42, r 5B(1) 500
O 42, r 5B 686
O 52 488
O 53 337
O 53, r 3(2)(b) 562
O 53, r 6(2) 562
O 53, r 6(4) 562
O 54, r 2 768
O 54, r 8 768
O 55, r 3 168

Securities and Futures Commission Ordinance (Cap 24)
s 33(4) 75
s 33(6) 75
s 36 75
Summary Offences Ordinance (Cap 228)
s 3 716
s 13(2)(a) 159
s 13(4)(a) 115
s 17 375,581,716
s 30 186,581,650
Supreme Court Ordinance (Cap 4) 186
s 23(1) 768

Theft Ordinance (Cap 210)
s 17(1) 457
s 18B(1) 457
s 29(6)(a)(i) 457

Town Planning (Amendment and Validation) Ordinance 1974
(No 59 of 1974) 194
Town Planning (Amendment) Ordinance (Ordinance No 4 of 1991) 194
s 1(2) 686
s 6(b) 686
s 6(g) 686
s 6(h) 686
s 6(i) 686
Town Planning Amendment Bill 1990 686
Town Planning Ordinance (Cap 131)
s 1A 194
s 3 194,686
s 4 194
s 4A 194
s 5 194
s 6 194
s 8 194
s 9 194
s 13 194
s 14 194
s 16 194,686
s 17 194,686
s 17A 194,686
s 17B 194,686
s 20 194,686
s 21 194
s 23(1) 686
s 23(4) 686
s 23(4)(b) 686
s 26 194,686

United Kingdom Legislation

Administration of Justice Act 1960 (UK), s 14(2) 768
Affiliation Proceedings Act 1957 (UK) 388
British Nationality Act 1981 (UK)
s 15(3) 481
s 50(9)(b) 481
Children Act 1989 (UK) 388
Contempt of Court Act 1981 (UK)
s 4(2) 488
Drug Trafficking Offences Act 1986 (UK)
s 28 75

Extradition Act 1989 (UK)
First Schedule, clauses 1(2)(b), 7(1), 8(1) 768
First Schedule, clause 6(1) 652,768
Family Law Reform Act 1987 (UK) 388
Guardianship of Minors Act 1971 (UK)
s 11B 388
Hong Kong (Legislative Powers) Order 1986 129
Hong Kong Act 1985 (UK)
Schedule, s 3(1)(b) 129
Hong Kong Letters Patent 1917–1993 art XV 18
Hong Kong Letters Patent 1991 (No 2) 324
Immigration Act 1971 (UK)
s 13(3) 337
Immigration Appeals (Procedure) Rules 1984 (UK)
r 14(2)(a) 500
Magna Carta 1215 62
Police and Criminal Evidence Act 1984 (UK)
s 78 652
Prevention of Crime Act 1953 (UK)
s 1(4) 375
Representation of the People Act 1983 (UK) 415
Sexual Offences Act 1967 (UK) 33
Supreme Court Act 1981 (UK)
s 16(1) 159
Territorial Waters Jurisdiction Act 1878 (UK)
s 2 129
s 3 33,129
s 4 33
s 5 129
United States of America (Extradition) Order 1976, Schedule 1 768

Foreign Legislation

CANADA

Canadian Charter of Rights and Freedoms 1982
s 7 592
s 8 75
s 11(d) 592
s 24(2) 75
Narcotics Control Act, RSC 1970, c N-1 (Canada)
s 10(1) 75

MALAYSIA
Bankers Books (Evidence) Act 1949 (Malaysia) 860
Criminal Procedure Code (FMS Cap 6) (Malaysia) 860
Internal Security Act 1960 (Malaysia) s 8(1) 860
s 11 860
s 12 860
s 13 860
s 73 860
Prevention of Corruption Act 1961 (Malaysia) 860

NEW ZEALAND
New Zealand Bill of Rights Act 1990
s 3(b) 637

PEOPLE'S REPUBLIC OF CHINA
Constitution of the People's Republic of China 736
Trade Union Act of April 1992 736
Provisional Regulations of 1987 on labour dispute settlement in state enterprises 736
Regulations of 1 August 1993 on the labour dispute settlement in enterprises in the People's Republic of China 736

USA
Constitution of the United States of America,
Fourth Amendment 75
Sixth Amendment 592

International Treaties and Other International Sources

Convention Relating to the Status of Refugees 1951, 189 UNTS 137 337
Convention Relating to the Status of Stateless Persons 1954, 360 UNTS 117 265

European Convention for the Protection of Human Rights and Fundamental Freedoms 1950, 213 UNTS 221
art 6(1) 194
art 6(3)(d) 592
art 8 75
Extradition Treaty between the United Kingdom and the United States of America 1972, art VI 768

Freedom of Association and Protection of the Right to Organize Convention 1948 (ILO No 87), 68 UNTS 17 736

Human Rights Committee, *General comment 18 (37)*, UN Doc CCPR/C/21/Rev 1/Add 1 (1989), paras 4, 6, 7, 8, 13 601

International Covenant on Civil and Political Rights 1966
art 2(2) 1
art 14(1) 324
art 14(3)e 592
art 26 1
art 27 1
International Covenant on Economic Social and Cultural Rights 1966, 999 UNTS 3
art 10 542

Protocol to the Convention Relating to the Status of Refugees 1967, 606 UNTS 267 337

Right to Organise And Collective Bargaining Convention 1949 (ILO No 98), 96 UNTS 257 736

Statement of an Understanding reached between the Hong Kong Government and UNHCR concerning the Treatment of Asylum Seekers arriving from Vietnam in Hong Kong (1988) 337

Vienna Convention on the Law of Treaties 1969
art 33 194

Other Sources

Archbold: Criminal Pleading Evidence and Practice (1982) (2nd Supp 41st ed), paragraph 20.49 782

Archbold:Criminal Pleading, Evidence and Practice (London: Sweet & Maxwell, 1993 edition), vol 1, para 4–398 581

Archbold: Criminal Pleading, Evidence and Practice (London: Sweet & Maxwell, 1994), vol 2, para 28–122 488

Archbold Criminal Pleading, Evidence and Practice (London: Sweet & Maxwell, 1994), vol 2, chap 33 621

Aronson, M and N Franklin, *Review of Administrative Action* (Sydney: Law Book Co, 1987), p 102 562

Beloff, M, "Natural Justice (The Audi Alteram Partem Rule) and Fairness" in M Supperstone and J Goudie (eds) *Judicial Review* (London: Butterworths, 1992), p152 500

Bossuyt, M J, *Guide to the "Travaux Préparatoires" of the International Covenant on Civil and Political Rights* (Dordrecht: Martinus Nijhoff, 1987) 75

Bridge, J W, "The Duty to Give Reasons for Decisions as an Aspect of Natural Justice" in D Lasok (ed) *Fundamental Duties* (Oxford: Pergamon Press, 1980) 500

Byrnes A, Chan J and Edwards G (eds), *Hong Kong Public Law Reports*, (Hong Kong: Hong Kong University Press, 1993), vol 1 457

Byrnes, A, "The Impact of the Bill of Rights on Litigation", in J Sihombing (ed), *Law Lectures for Practitioners 1992* (Hong Kong: Hong Kong Law Journal Ltd, 1992), pp 223–224 194

Clark, D and McCoy,G, *Hong Kong Administrative Law* (Singapore: Butterworths Asia, 2nd ed 1993), p 480 194

Code on Takeovers and Mergers (Hong Kong: Securities & Futures Commission, 1992) 274,298

Cruden, G N, *Land Compensation and Valuation Law in Hong Kong* (Singapore: Butterworths, 1986), p 380 194

deSmith, S A, *Judicial Review of Administrative Action* (London: Stevens & Sons Ltd, 4th ed 1980) 285,500

Digest of decisions and principles of the Freedom of Association Committee, Geneva: ILO, 3rd ed 1985), paras 133 and 134 736

Explanatory Memorandum to the Criminal Law (Amendment) Bill 1990, *Hong Kong Government Gazette*, Legal Supplement No 3, 25 October 1990 129

Gazette Notice 2334, No 28 of 1991, *Hong Kong Government Gazette*, Supplement No 6, vol 133, 12 July 1991, p 3209 194

Gazette Notice 436 of 1993, *Hong Kong Government Gazette*, Supplement No 6, vol 135, 12 February 1993, p590 129

Halsbury's Laws of England (London: Butterworths, 4th ed 1986), v 34, para 1433 194

Halsbury's Laws of England (London: Butterworths, 4th ed 1986), v 44, para 982 194

Henkin, L (ed), *The International Bill of Rights: The Covenant on Civil and Political Rights* (New York: Columbia University Press, 1981) 621
Herberg, J, "The Right to Reasons: Palm Trees in Retreat?" [1991] *Public Law* 340 500
Hong Kong Bar Association, By-laws, art 2 637
Hong Kong Bar Association, Code of Conduct, paras 10(a), 101 637
Hong Kong Code on Takeovers and Mergers (Hong Kong: Securities Commission, rev'd ed, 1981) 298

Jacob, J I H, *The Supreme Court Practice 1993* (London: Sweet & Maxwell, 1992), vol 1, p 862, ref 53/1–14/39 562
Justice — All Souls Committee on the Review of Administrative Law in the United Kingdom, *Administrative Justice: Some necessary reforms* (Oxford University Press, 1988) 500

Kitingan, J (ed), *Sabah 25 Years Later 1963–1988* (Kota Kinabalu, Sabah: Institute for Development Studies (Sabah), 1989) 860

Law Reform Commission of Hong Kong, *Report on Illegitimacy*, Topic 28, (Hong Kong Government, December 1991) 388
Lewis, C, "The Exhaustion of Alternative Remedies in Administrative Law" (1992) 51 *CLJ* 138 562

New Shorter Oxford English Dictionary, The (Oxford: Clarendon, 1993) 75
Nowak, M, *UN Covenant on Civil and Political Rights: CCPR Commentary* (Kehl, Strasbourg, Arlington: N P Engel, 1993) 356

Office of the United Nations High Commissioner for Refugees, *Handbook on Procedure and Criteria for Determining Refugee Status* (Geneva: UNHCR, 1979), paras 199, 203, 204, 205(b) 337
Official Record of Proceedings of the Hong Kong Legislative Council 1970–1971, 21 October 1970 621
Official Record of Proceedings of the Hong Kong Legislative Council, 24 June 1992, pp 3645–3646 388
Official Record of Proceedings of the Hong Kong Legislative Council, 10 March 1993, pp 2413–241 388

Official Record of Proceedings of the Hong Kong Legislative Council: Session 1990/91, at 65–67, 328–330, 333 601
Osborne, C, "Hearsay and the European Court of Human Rights" [1993] *Crim LR* 255 592

Report of a Commission on Inquiry appointed by the ILO Governing Body, Official Bulletin, special supplement, Vol. LXVII, 1984, series B, para. 466. 736
Report of the ICAC Review Committee (December 1994) 621
Report of the Sittings of the Legislative Council of Hong Kong, Session 1978/79, pp 931–932 (20 June 1979) 813
Richardson, G, "The Duty to Give Reasons: Potential and Practice" [1986] *Public Law* 437 500

Shorter Oxford English Dictionary, The (Oxford: Clarendon Press, 3rd ed 1994). 129
Sihombing, J and Wilkinson, M, *Hong Kong Conveyancing* (Singapore: Butterworths Asia, 1993), para 77 194
Siracusa Principles on the Limitation and Derogation Provisions in the ICCPR, (1985) 7 *Human Rights Quarterly* 324
Sopiee, M N, *From Malayan Union to Singapore Separation: political unification in the Malaysia region, 1945–65* (Kuala Lumpur: Penerbit Universiti Malaya, 1974) 860
Supperstone, M and Goudie, J, *Judicial Review* (London: Butterworths, 1992), 285,500,562
Supreme Court Practice 1993 (London: Sweet and Maxwell, 1993), v 1, para 53/1–14/29 274
Supreme Court Practice 1993 (London: Sweet and Maxwell, 1993), v 1, para 10/1/15 837

Wade, H W R, *Administrative Law* (Oxford: Clarendon Press, 6th ed, 1988), pp 223, 533 500,562
Wade, H W R, *Administrative Law* (Oxford: Clarendon, 6th ed 1988), p 477 285,400
Wade H W R, *Constitutional and Administrative Law* (Harlow: Longman, 10th ed 1985), p 610 194

Cumulative Subject Index to Volume 4

Parts 1 to 4

Administrative law

Contractual liability arising from government undertaking to publish submissions on electoral issues

Government consultation on issues — Government solicitation of public submissions on electoral issues — Undertaking to publish submissions — Whether failure to do so gave rise to cause of action in tort or contract

Yung Tak-lam, Philip v Governor [Christopher Patten] and others [HCt] 885

Judicial review

Application for leave — Test to be applied — Whether material before court discloses what might on further consideration turn out to be an arguable case

R v Governor, ex parte Reid [CA] 18

Application for leave — Delay — When time begins to run — Discretion to extend time limit — Rules of the Supreme Court (Cap 4, sub leg), O 53

R v Panel on Takeovers and Mergers and another, ex parte William Cheng Kai-man [HCt] 274

Proper test being potential arguability

R v Panel on Takeovers and Mergers and another, ex parte William Cheng Kai-man [HCt] 274

Application for leave — Delay — No reasonable excuse for the delay and no good reason for extending time shown for application to be granted — Whether merit of case to be considered by court in the exercise of its discretion to grant an application for judicial review

R v Director of Immigration, ex parte Cheung Kuk-ching [HCt] 542

Application for leave — Test to be applied in deciding whether to grant leave — Whether applicant must show "potential arguability" — Whether material disclosed matters which on further consideration might demonstrate an arguable case for the grant of the relief claimed

R v Director of Immigration, ex parte Cheung Kuk-ching [HCt] 542

Availability — Concurrent criminal proceedings — Declaration not to be granted if such would preempt or prejudice criminal proceedings
R v Obscene Articles Tribunal, ex parte Loui Wai-po and Ming Pao Holdings Ltd [HCt] 5

Availability — Alternative remedy — Not appropriate when alternative remedy available — Purpose of judicial review — Special circumstances
R v The Disciplinary Committee of the Stock Exchange of Hong Kong Ltd, ex parte Onshine Securities Ltd [HCt] 523

Availability — Alternative remedy — Exhaustion of other remedies required
R v Medical Council of Hong Kong, ex parte Li Sum-wo [HCt] 548

Availability — Alternative remedy — Practice and procedure — Whether applicant should exhaust other avenues of remedies
R v Director of Immigration, ex parte Du Gui Fang [HCt] 562

Certiorari — Decision of Commissioner of Correctional Services Department requiring employee to obtain medical certificate from designated clinic if sick leave is to be granted — Abuse of sick leave
R v Commissioner of Correctional Services, ex parte Ngai Fook-lam [HCt] 854

Courts — Jurisdiction — Whether Court of Appeal has jurisdiction to grant bail following successful challenge in judicial review proceedings to refusal to grant applicant refugee status — Whether appropriate to grant bail
Re Le Tu Phuong and another [CA] 159

Grounds for review — Natural justice — Bias — Test — Real possibility of bias — Representative of executive member of disciplinary board — Executive also the complainant — Bill of Rights, art 10 — Lifts and Escalators (Safety) Ordinance (Cap 327), s 11G(2)(d)
R v Lift Contractors' Disciplinary Board, ex parte Otis Elevator Company (HK) Ltd [HCt] 168

Delay — Application for leave made out of time — Failure to provide any explanation
R v Commissioner of Correctional Services, ex parte Ngai Fook-lam [HCt] 854

Ouster clause — Decision of Refugee Status Review Board not to be subject to review or appeal in any court — Whether Board's decision

was a nullity not protected from review by ouster clause — "decision" — "nullity" — Immigration Ordinance (Cap 115), s 13F(8)
R v Director of Immigration, ex parte Le Tu Phuong and another [CA] 337

Practice and procedure — Jurisdiction of the court to admit additional affidavits from respondent out of time — Whether 56 day time limit should be rigorously enforced — Rules of the Supreme Court (Cap 4, sub leg), O 53, rr 3, 5 and 6
R v Director of Immigration, ex parte Du Gui Fang [HCt] 562

Validity of enforcement notice — Retrospective legislation — Town Planning Ordinance (Cap 131) — Town Planning (Amendment) Ordinance 1991 (Ordinance No 4 of 1991)
R v Attorney General, ex parte Tsei Kwei-king and another [HCt] 686

Whether decision of Governor not to exercise prerogative of mercy subject to judicial review — Whether case fit for investigation at a full hearing — Whether matters disclosed which on further consideration might demonstrate an arguable case for the grant of the relief claimed — Substitution of executive decision on sentencing for a judicial decision — Hong Kong Letters Patent 1917–1993, art XV
R v Governor, ex parte Reid [CA] 18

Whether a challenge to the decision of returning officer disqualifying a prospective candidate can proceed by way of judicial review before the election, or whether it must proceed by way of election petition — Electoral Provisions Ordinance (Cap 367), ss 30, 31, 37
R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [HCt] 400
R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [CA] 415

Whether provision providing that the decision of returning officer shall be final precludes judicial review — Whether provision ultra vires — "final" — Electoral Provisions Ordinance (Cap 367), s 30
R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [HCt] 400
R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [CA] 415

Whether decision of a public authority is amenable to judicial review — Public law and private law — Distinction between public act and private act — Disputes under contract of employment between government servant and government a matter of private law

R v Commissioner of Correctional Services, ex parte Ngai Fook-lam [HCt] 854

Natural justice

Bias — Test — Real possibility of bias

R v Lift Contractors' Disciplinary Board, ex parte Otis Elevator Company (HK) Ltd [HCt] 168

Bias — Whether Town Planning Board judge in its own cause when hearing objection to plans it promulgated — Town Planning Ordinance (Cap 131), ss 6(6) and (9)

R v Town Planning Board, ex parte Auburntown Ltd [HCt] 194

Bias — Test — Real danger of bias — More stringent test applied when a person acting in a judicial capacity has pecuniary interest in the matter — "direct pecuniary interests" — "possibility" of "pecuniary interests"

R v Panel on Takeovers and Mergers and another, ex parte William Cheng Kai-man [HCt] 285

Bias — Test — "real likelihood" of bias — "reasonable suspicion" of bias — "real likelihood in the sense of a real possibility" — "possibility" of bias — Person acting in a judicial capacity and having a pecuniary interest in the matter — "direct pecuniary interest" — "pecuniary interest"

R v Panel on Takeovers and Mergers and another, ex parte William Cheng Kai-man [HCt] 285

R v Panel on Takeovers and Mergers and another, ex parte William Cheng Kai-man [CA] 298

Duty to act fairly — Procedural fairness — Asylum cases — Screening procedure — Legitimate expectation of the full and fair observance of the screening practice and procedure — Duty to read back the notes of interview — Whether different standards to be applied under Hong Kong law than under United Kingdom law — Immigration Ordinance (Cap 115), ss 4(1)(a), 13D(1)

R v Director of Immigration, ex parte Le Tu Phuong and another [CA] 337

Duty to act fairly — Whether general duty to give reasons for administrative decisions

R v Immigration Tribunal, ex parte Tsang Yau-chiu and others [HCt] 500

Duty to give reasons — Nature of reasons required to be given — Adequacy of reasons — Immigration Ordinance (Cap 115), s 53D
R v Immigration Tribunal, ex parte Tsang Yau-chiu and others [HCt] 500

Duty to give reasons — When applicable
R v Medical Council of Hong Kong, ex parte Li Sum-wo [HCt] 548

Duty to give reasons — Duty to act fairly — Whether duty to confront the applicant with damaging material — Whether duty to make positive enquiry — Whether decision refusing an application for a change of status Wednesbury unreasonable
R v Director of Immigration, ex parte Du Gui Fang [HCt] 562

Right to be heard — Denial of legal representative before disciplinary tribunal — bias — Constitution of tribunal
R v The Disciplinary Committee of the Stock Exchange of Hong Kong Ltd, ex parte Onshine Securities Ltd [HCt] 523

Relief

Interim relief — Injunction — Factors to be considered
R v Panel on Takeovers and Mergers and another, ex parte William Cheng Kai-man [HCt] 274

Relief discretionary — Relief not granted if to do so would be contrary to public policy
Re Chan Yat-fai and others [HCt] 481

Supervisory role of court — Appropriate order — Desirability of court quashing decision to provide clear guidance as to steps to be taken in order for decision-maker to comply with law — Whether court should consider whether outcome would be different
R v Director of Immigration, ex parte Le Tu Phuong and another [CA] 337

Ultra vires

Failure to take into account relevant considerations — Unincorporated treaty — Director not obliged to comply with provisions of unincorporated treaty but required to take its provisions into account
R v Director of Immigration, ex parte Yin Xiang-jiang and others [CA] 265

Sources of power for development permission areas to control develop-

ment — Effective development permission area plan — Presumption not to deprive a person's property rights without compensation not applicable when legislation merely regulates the use of property — "development" — "effective" — Town Planning Ordinance (Cap 131), ss 1A, 3(1)(b), 16, 20(5) and (6), 21

R v Town Planning Board, ex parte Auburntown Ltd [HCt] 194

Whether Town Planning Board acting ultra vires in laying down restrictions on types of building and plot ratios in development permission area plan — Legislative history — Expressio unius est exclusio alterius — Expressum facit cessare tacitum — Purposive approach of interpretation to be adopted — Effective development permission area plan — "as well as for the types of building" — "development" — "effective" — Building Ordinance (Cap 123), s 16 — Interpretation and General Clauses Ordinance (Cap 1), s 19 — Town Planning Ordinance (Cap 131), ss 1A, 3(1)(a) and (b), 4, 20, 21

R v Town Planning Board, ex parte Auburntown Ltd [HCt] 194

Whether provision providing that the decision of returning officer shall be final precludes judicial review — Whether provision ultra vires — "final" — Electoral Provisions Ordinance (Cap 367), s 30

R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [HCt] 400

R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [CA] 415

Bill of Rights/Bill of Rights Ordinance

Application

Commencement date — Statutory provisions inconsistent with Bill of Rights repealed with effect from 8 June 1991 — Hong Kong Bill of Rights Ordinance (Cap 383), s 3(2)

R v Kwok Hing-man [CA] 186

Consistency of legislation with the Bill of Rights — Whether court should look at the section creating the offence as a whole in assessing consistency — Whether appropriate to adopt rigid formalistic analysis in determining consistency with the Bill of Rights

R v China State Construction Engineering Corporation [Mag] 716

Extraterritorial operation — Whether Bill of Rights applies to actions

taken outside of Hong Kong
Re Thanat Phaktiphat [HCt] 652

Government and public authorities — Whether the Hong Kong Bar Association in promulgating its Code of Conduct is acting as a public authority — "public authority" — Hong Kong Bill of Rights Ordinance, s 7(1)
Re Anthony Chua [Barristers' Disciplinary Tribunal] 637

Immigration — Whether Bill of Rights applies to decisions of Director of Immigration refusing to permit persons to remain indefinitely in Hong Kong — Effect of provision providing that Ordinance does not affect immigration legislation governing entry into, stay in and departure from Hong Kong as regards persons without right to enter and remain in Hong Kong — Hong Kong Bill of Rights Ordinance (Cap 383), s 11
R v Director of Immigration, ex parte Hai Ho-tak;
R v Director of Immigration, ex parte Wong Chung-hing and others [CA] 324

Immigration legislation — Whether Bill of Rights applicable to a decision of the Director of Immigration refusing an application for a change of status — Bill of Rights Ordinance (Cap 383), s 11
R v Director of Immigration, ex parte Du Gui Fang [HCt] 562

Interpretation — Generous and purposive approach — Realism and good sense
R v To Kwan-hang and Tsoi Yiu-cheong [CA] 356

Pre-existing legislation — Whether legislation admits of construction consistent with Bill of Rights — Reference to "suspicion" construed as meaning "reasonable suspicion" — Repeal to the extent of the inconsistency — Excision of words in order to render remaining words consistent with the Bill of Rights — "suspected" — "alleged" — "ex parte" — Bill of Rights Ordinance (Cap 383), ss 3(1), 3(2) — Prevention of Bribery Ordinance (Cap 201), s 17A(1)
Re Nattrass [Mag] 234

Pre-existing legislation — Inconsistency with Bill of Rights — Repeal to the extent of the inconsistency — Excision of words from statutory provision possible — Hong Kong Bill of Rights Ordinance (Cap 383), s 3(2) — Public Order Ordinance (Cap 245), s 33 — Summary Offences Ordinance (Cap 228), s 17
R v Chong Ah-choi and others [CA] 375

Pre-existing legislation — Repeal — Effect of repeal of legislation — Quashing of convictions and setting aside of sentences of defendants

convicted of crimes under sections deemed to have been repealed by the Bill of Rights Ordinance
R v Chu Cheuk-hong; R v Siu Hai-ka and others [CA] 650

Pre-existing legislation — Whether legislation admits of construction consistent with Bill of Rights — Interpreting reference to "suspicion" as meaning "reasonable suspicion" — Repeal to the extent of any inconsistency — Excision of words in order to render remaining words consistent with the Bill of Rights — "suspected" — "alleged" — "ex parte" — Bill of Rights Ordinance (Cap 383), ss 3(1), 3(2), — Prevention of Bribery Ordinance (Cap 201), s 17A(1)
Re Tin Sau-kwong [Mag] 917

Repeal of inconsistent provision by Bill of Rights Ordinance — Decision of lower court declaring provision repealed — Subject to contrary decision by superior court — Relevance of Attorney General's views on validity of the provision — Unsatisfactory nature of such a position — Hong Kong Bill of Rights Ordinance (Cap 383), s 3(2) — Bill of Rights, art 11(1) — Theft Ordinance (Cap 210), s 29(6)(a)(i)
R v Anastasius Chiu [CA] 457

Retrospective operation — Amendments to legislation following declaration of repeal by courts — Application of amendments to proceedings concerning events prior to enactment of amending legislation — Bill of Rights, arts 10, 11(1), 12
R v Lum Wai-ming [CA] 497

Retrospective operation — Whether applicable to proceedings concerning events occurring prior to commencement of amending legislation — Drug trafficking offences — Presumptions — Presumptions as to possession — Amendments — Summing up — Dangerous Drugs (Amendment) (No 2) Ordinance (No 52 of 1992) — Dangerous Drugs Ordinance (Cap 134), s 47(2)
R v Lum Wai-ming [CA] 497

Retrospective operation — Application to offences committed subsequent to the coming into the operation of the Bill of Rights Ordinance — Hong Kong Bill of Rights Ordinance (Cap 383), s 3(2)
R v Chu Cheuk-hong; R v Siu Hai-ka and others [CA] 650

Equality before courts and tribunals

Deprivation of travel document of a person under investigation by the ICAC — Whether procedure involved denial of equality before the courts —Bill of Rights, art 10 — Prevention of Bribery Ordinance (Cap 201), ss

17A, 17B 201), ss 17A, 17B
Re Nattrass [Mag] 234

Right of access to court — Whether requirement that person apply first to ICAC Commissioner before applying to court violated right — Bill of Rights, art 10 — Prevention of Bribery Ordinance (Cap 201), ss 17A, 17B
Re Tin Sau-kwong [Mag] 917

Whether preferential treatment of the Crown involved denial of equality before the courts— Bill of Rights, art 10 — Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237), s 3(2)
R v Crawley [HCt] 62

Equality before the law and equal protection of the law

Illegitimacy — Whether time limit of 12 months after birth of an illegitimate child for filing an application for financial support by child's mother consistent with guarantee of equality — Whether requirement that mother's evidence of paternity be corroborated discriminatory — Affiliation Proceedings Ordinance (Cap 183), ss 4, 5 — Bill of Rights, art 22
L v C [HCt] 388

Power of magistrate to order the surrender of passport by a suspect under investigation by the ICAC on an ex parte application by the Commissioner of the ICAC — Bill of Rights, art 22 — Prevention of Bribery Ordinance (Cap 201), s 17A(1)
Re Nattrass [Mag] 234

Rights of honest taxpayers to equality arguably violated if the law were important or inefficient in combatting evasion of duty — Bill of Rights — art 22
Attorney General v Fong Chin-yue and others;
R v Wang Shi-hung [CA] 430

Traffic offences — Owners of private vehicles liable for obstruction offences whereas Crown as owners of government vehicles not liable under similar circumstances — Whether consistent with preferential and discriminatory treatment of the Crown — Bill of Rights, art 22 — Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237), ss 3(2) and 14(2)
R v Crawley [HCt] 62

Whether powers to investigate persons suspected of dangerous drug offences discriminatory against persons of a particular status — "status" — Bill of Rights, art 22 — Dangerous Drugs Ordinance (Cap 134), s 52
R v Yu Yem-kin [HCt] 75

Exceptions and savings

Exclusion from scope of Bill of Rights Ordinance of persons not having right to enter and remain in Hong Kong as regards immigration legislation — Exception prevented members of family with right of abode from invoking Bill of Rights to impugn decision to order removal of family members without right of abode — Hong Kong Bill of Rights Ordinance (Cap 383), s 11

R v Director of Immigration, ex parte Hai Ho-tak; R v Director of Immigration, ex parte Wong Chung-hing and others [CA] 324

Interpretation — Exceptions not obscure or ambiguous and are to be interpreted according to their plain and ordinary meaning — Relevance of international treaties — Need to approach interpretation of the Bill of Rights with realism, good sense, and sense of proportion — Hong Kong Bill of Rights Ordinance (Cap 383), s 11

R v Director of Immigration, ex parte Hai Ho-tak; R v Director of Immigration, ex parte Wong Chung-hing and others [CA] 324

Freedom of association

Civil liberties necessary for enjoyment of trade union rights — Expulsion of trade unionist — Permitting reentry on condition that trade unionist not exercise rights — Whether consistent with trade union rights

Case No 1652 v China; Complaint against the Government of China presented by the International Confederation of Free Trade Unions (ICFTU) [ILO] 736

Right to organise and bargain collectively — Trade Union Act (1992) — Unions required to further socialist modernisation — Single trade union structure nation-wide — Whether a violation of the right to freedom of association and the right to bargain and organise collectively — PRC Trade Union Act 1992

Case No 1652 v China; Complaint against the Government of China presented by the International Confederation of Free Trade Unions (ICFTU) [ILO] 736

Right to strike — Whether exclusion of right to strike consistent with guarantees of freedom of association

Case No 1652 v China; Complaint against the Government of China presented by the International Confederation of Free Trade Unions (ICFTU) [ILO] 736

Freedom of expression

Whether classification by Obscene Articles Tribunal violates freedom of expression — Control of Obscene and Indecent Articles Ordinance (Cap 390) — Bill of Rights, art 16

R v Obscene Articles Tribunal, ex parte Loui Wai-po and Ming Pao Holdings Ltd [HCt] 5

Whether restriction on disclosure of details of an ICAC investigation "a restriction prescribed by law" — Whether protection of rights and reputation of others an objective of the restriction on disclosure — Protection of public order (ordre public) — Pressing social need — Mandatory disqualification from public office for person convicted of offence — "necessary" — "ordre public" — "public order" — Prevention of Bribery Ordinance (Cap 201), ss 30, 33 — Bill of Rights, art 16(2)

R v Ming Pao Newspapers Ltd [Mag] 621

Whether restriction on personal advertisement by barristers a violation of the right to freedom of expression — Bill of Rights, art 16 — Bar's Code of Conduct, para 101

Re Anthony Chua [Barristers' Disciplinary Tribunal] 637

Freedom of movement

Deprivation of travel document of a person under investigation by the ICAC — Whether reasonable suspicion required — Whether power can be invoked in relation to an alleged offence — "alleged" — "suspected" — "reasonable suspicion" — Bill of Rights, art 8 — Prevention of Bribery Ordinance (Cap 201), s 17A

Re Nattrass [Mag] 234

Deprivation of travel document of a person under investigation by the ICAC — Whether reasonable suspicion required — Whether power can be invoked in relation to an alleged offence — "alleged" — "suspected" — "reasonable suspicion" — Bill of Rights, art 8 — Prevention of Bribery Ordinance (Cap 201), s 17A

Re Tin Sau-kwong [Mag] 916

Interpretation

Proper approach to interpreting the Bill of Rights — Text in one language can be used to clarify the meaning of the text in another language which is of equal authenticity — Autonomous meaning — "Rights and obligations in a suit at law" — Whether "rights and obligations in a suit at law" the same as "civil rights and obligations" — "Determination" —

Bill of Rights, art 10 — European Convention on Human Rights, art 6(1) — International Covenant on Civil and Political Rights, art 14 — Vienna Convention on the Law of Treaties, art 33
R v Town Planning Board, ex parte Auburntown Ltd [HCt] 194

Relevance of international treaties — Relevance of case law from other jurisdictions — European Convention on Human Rights, art 8 — Canadian Charter of Rights and Freedoms 1982, ss 7, 8
R v Yu Yem-kin [HCt] 75

Permissible limitations

Freedom of expression — Objectives of restriction — Whether justification limited to original objectives — "necessary" — Bill of Rights, art 16(3)
R v Ming Pao Newspapers Ltd [Mag] 621

Whether requirement that interference with protected right be lawful referred only to lawfulness under domestic law or also to an international standard — Tests of necessity and minimal intrusion — Common law notion of justice and international law notions of justice — "law" — "unlawful" — "universal concept of justice" — Bill of Rights, arts 5(1), 14, 15
R v Yu Yem-kin [HCt] 75

Whether infringing provision can be justified and survive Bill of Rights challenge — Rationality, proportionality and minimal impairment — Whether rational and proportional to place the burden of taking practicable steps on the construction site controller to keep illegal immigrants off of construction sites — Hong Kong Bill of Rights, arts 11(1), 22 — Immigration Ordinance (Cap 115), s 38A
R v Dragages et Travaux [Mag] 601
R v China State Construction Engineering Corporation [Mag] 716

Remedies

Exclusion of evidence — Evidence obtained in reliance on power held repealed by Bill of Rights — Whether evidence must or should be excluded — Factors to be taken into account — Relationship between common law power to exclude evidence and power under Bill of Rights Ordinance — Hong Kong Bill of Rights Ordinance (Cap 383), s 6(1)
R v Yu Yem-kin [HCt] 75

Inconsistent legislation — Effect of inconsistency with guarantee of equality in the Bill of Rights — Bill of Rights, art 22 — Bill of Rights Ordinance

(Cap 383), s 3(2)
R v Crawley [HCt] 62

Whether court has the power and duty in extradition proceedings to exclude evidence of telephone conversations obtained allegedly in a manner inconsistent with the Bill of Rights — Bill of Rights Ordinance (Cap 383), s 6
Re Thanat Phaktiphat [HCt] 652

Right to adequate facilities for preparation of one's defence

Missing exhibit — Whether reasonable possibility that the destruction or loss of evidence would impair the defendant's ability to make full answer and defence to the charge — Stay of proceedings — Bill of Rights, art 11(2)(b)
R v Chu Kam-to and another [HCt] 472

Right to the benefit of lesser penalty

Substitution of offence by another offence with a lesser penalty — Penalty imposed in excess of maximum provided for by replacement provision — Whether defendant entitled to be sentenced on the basis of lesser maximum — Crimes Ordinance (Cap 200), LHK 1984 ed, ss 76(1), 76(2) — Crimes Ordinance (Cap 200), ss 75(2) — Bill of Rights, art 12(1)
R v Tai Yiu-wah [CA] 56

Substitution of offence by another offence with a lesser penalty — Penalty imposed in excess of maximum provided for by replacement provision — Defendant entitled to be sentenced on the basis of lesser maximum — Crimes Ordinance (Cap 200), LHK 1984 ed, s 76A — Crimes Ordinance (Cap 200), ss 76 (1), (2) — Bill of Rights, art 12(1)
R v Yau Chi-keung [CA] 453

Rights of children

Right to protection by the State — Right not to be subject to discrimination on the ground of birth — Illegitimate child — Whether time limit of 12 months after birth of child for filing an application for financial support by child's mother consistent with guarantee of equality — Whether requirement that mother's evidence of paternity be corroborated discriminatory — Affiliation Proceedings Ordinance (Cap 183), ss 4, 5 — Bill of Rights, art 20
L v C [HCt] 388

Right to examine or have examined witnesses against one

Documentary evidence — Whether proof of previous criminal record by certificate of authorized police officer without calling any expert witness when such evidence is in dispute consistent with the right — Criminal Procedure Ordinance (Cap 221), s 63 — Bill of Rights, art 11(2)(e)
R v Wong Wai [Mag] 245

Documentary evidence — Admission of computer records as prima facie evidence — Power of judge to order oral evidence to be given if good reason exists for doubting the truth and accuracy of the computer records — Evidence Ordinance (Cap 8), ss 22A(1), (7) — International Covenant on Civil and Political Rights, art 14(3)(e) — European Convention on Human Rights, art 6(3)(d) — Hong Kong Bill of Rights Ordinance (Cap 383), s 2(3) — Hong Kong Bill of Rights, art 11(2)(e)
R v Chow Chai-sang [DCt] 592

Missing witnesses — Whether right guaranteed — Opportunity to test the evidence of a crucial missing witness against other evidence — Whether relevant that the prosecution had been at fault regarding the missing witness — Whether relevant that the defendant would benefit from exercise of his right or exploitation of his opportunities to test the evidence of a missing witness — Hong Kong Bill of Rights, arts 10, 11(2)(e)
R v Yeung Chi-chiu and another [DCt] 677

Missing witnesses — Whether unavailability of witnesses due to their repatriation to China from Hong Kong was a violation of right — Procedure to be followed — Hong Kong Bill of Rights Ordinance (Cap 383), art 11(2)(e)
R v Ng Ming [HCt] 908

Right not to be subject to medical or scientific experimentation without one's free consent

Right of person not to be subjected without his free consent to medical or scientific experimentation — Bill of Rights, art 3
R v Commissioner of Correctional Services, ex parte Ngai Fook-lam [HCt] 854

Right to a fair and public hearing by a competent, independent and impartial tribunal

Determination of criminal charge — Confiscation proceedings following conviction for drug trafficking— Whether involves "determination of a

criminal charge" — "criminal charge" — "criminal offence" — Dangerous Drugs (Recovery of Proceeds) Ordinance (Cap 405), s 5 — Bill of Rights, art 11(1)
R v Ko Chi-yuen [CA] 152

Determination of rights and obligations in a suit at law — Indecency — Whether initial classification by Obscene Articles Tribunal involves a determination of rights and obligations in a suit at law — Nature of classification procedure — Whether notice of interim classification should be served on the parties adversely affected by the classification — Control of Obscene and Indecent Articles Ordinance (Cap 390) — Bill of Rights, art 10
R v Obscene Articles Tribunal, ex parte Loui Wai-po and Ming Pao Holdings Ltd [HCt] 5

Determination of rights and obligations in a suit at law — Illegal structure — Demolition order — Closure order to enable the Building Authority to carry out demolition work without causing danger to the occupiers or to the public — "suit at law" — Whether any "rights and obligations" are involved — Bill of Rights, art 10 — Buildings Ordinance (Cap 123), s 27(1)(a)(ii)
Business Rights Ltd v Building Authority [CA] 43

Determination of rights and obligations in a suit at law — Whether court in granting closure order is involved in an administrative act or a judicial act — Whether there is any "determination" of rights and obligations — Bill of Rights, art 10 — "determination" — Buildings Ordinance (Cap 123), s 27(1)(a)(ii)
Business Rights Ltd v Building Authority [CA] 43

Determination of rights and obligations in a suit at law — Objection to Draft Development Permission Plan — Whether objection proceedings involve rights and obligations in a suit at law — Whether objection proceedings involve "determination" of civil rights and obligations — Whether promulgation of development permission area plan an administrative or legislative act — Whether objection proceedings a fair and public hearing
R v Town Planning Board, ex parte Auburntown Ltd [HCt] 194

Fair and public hearing — Closure order — Possibility of Appeal Tribunal dismissing an appeal merely on written material without an oral hearing where "no good cause" had been shown not inconsistent with this right — Bill of Rights, art 10 — Appeal Tribunal Rules (Cap 123, sub leg), rr 1, 2
Business Rights Ltd v Building Authority [CA] 43

Fair and public hearing — Objection to Draft Development Permission Plan — Whether objection proceedings a fair and public hearing
R v Town Planning Board, ex parte Auburntown Ltd [HCt] 194

Fair and public hearing — Whether preliminary ex parte proceedings where a magistrate may order the surrender of travel document of a suspect under ICAC investigation consistent with right — Bill of Rights, art 10 — Prevention of Bribery Ordinance (Cap 201), ss 17A, 17B
Re Nattrass [Mag] 234

Independent and impartial tribunal — Demolition order — Closure order — Appeal Tribunal — One member of the tribunal appointed by the Building Authority — Whether tribunal independent and impartial — "independent and impartial" — Bill of Rights, art 10 — Buildings Ordinance (Cap 123), ss 27, 43(2)
Business Rights Ltd v Building Authority [CA] 43

Independent and impartial tribunal — Registered Lift Contractors' Disciplinary Board — Boards chosen from panel members of which were required to be recommended by Director of Electrical and Mechanical Services who was complainant before Board — Not inconsistent with article 10 of the Bill of Rights — Bill of Rights, art 10 — Lifts and Escalators (Safety) Ordinance (Cap 327), s 11E(2)
R v Lift Contractors' Disciplinary Board, ex parte Otis Elevator Company (HK) Ltd [HCt] 168

Independent and impartial tribunal — Registered Lift Contractors' Disciplinary Board — Director of Electrical and Mechanical Services or his representative member of disciplinary board but also preferrer of charge — Inconsistent with article 10 of Bill of Rights — Bill of Rights, art 10 — Lifts and Escalators (Safety) Ordinance (Cap 327), s 11G(2)(d)
R v Lift Contractors' Disciplinary Board, ex parte Otis Elevator Company (HK) Ltd [HCt] 168

Independent and impartial tribunal — Whether availability of appeal by way of rehearing before High Court judge satisfied requirement of access to court — Bill of Rights, art 10 — Lifts and Escalators (Safety) Ordinance (Cap 327), s 11I
R v Lift Contractors' Disciplinary Board, ex parte Otis Elevator Company (HK) Ltd [HCt] 168

Independent and impartial tribunal — Whether Town Planning Board an independent and impartial tribunal — Composition of the Board — "determination" — "rights and obligations in a suit at law" — Bill of Rights, art 10 — European Convention on Human Rights, art 6 —

Interpretation and General Clauses Ordinance (Cap 1), s 34 — International Covenant on Civil and Political Rights, art 14 — Town Planning Ordinance (Cap 131), ss 2, 6, 8, 9, 13, 14
R v Town Planning Board, ex parte Auburntown Ltd [HCt] 194

Right to a fair hearing — Disciplinary proceedings — Right to a fair and public hearing before an independent and impartial tribunal — Denial of legal representation — bias — Member of disciplinary Committee also members of Stock Exchange council — Existence of an appeal to Disciplinary Appeal board
R v The Disciplinary Committee of the Stock Exchange *of Hong Kong Ltd, ex parte Onshine Securities Ltd* [HCt] 523

Right to a fair hearing — Whether right to fair hearing applies to extradition proceedings — Whether extradition proceedings involve "determination of a criminal charge" — Assumption that a fugitive will obtain a fair hearing in requesting state — Whether admission of inadmissible evidence a violation of right — Bill of Rights, arts 10, 11
Re Thanat Phaktiphat [HCt] 652

Right to a fair hearing in the determination of a criminal charge — Adverse pre-trial publicity — Whether fair trial possible — Stay of proceedings — Whether there is a difference between principles governing grant of stay under Bill of Rights and at common law — Whether stay of proceedings a just and appropriate remedy — Effluxion of time — Proper directions to the jury by trial judge — Bill of Rights, art 10 — Bill of Rights Ordinance (Cap 383), s 6 — Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405), s 25
R v Lo Chak-man (No 2) [HCt] 466

Right to a fair hearing in the determination of a criminal charge — Missing exhibit — Whether reasonable possibility that the destruction or loss of evidence would impair the defendant's ability to make full answer and defence to the charge — Stay of proceedings — Bill of Rights, art 10
R v Chu Kam-to and another [HCt] 472

Right to a fair hearing in the determination of a criminal charge — Prejudice to defendant — Publication of defendant's photographs where his identification an issue at trial — Stay of proceedings — Publication not so manifestly prejudicial that right could not be guaranteed — Bill of Rights, art 10
R v Wong Sik-ming [DCt] 488

Right to a fair hearing in the determination of a criminal charge — Stay

of prosecution where defendants deprived of opportunity to test evidence of missing witness — Hong Kong Bill of Rights, arts 10, 11(2)(e)
R v Yeung Chi-chiu and another [DCt] 677

Right to a fair hearing in the determination of rights and obligations in a suit at law — Right of access to court — Whether exclusion of judicial review before election constitutes a denial of the right of access to court — Boundary and Election Commission (Electoral Procedure) (Geographical Constituencies) Regulations (Cap 432 sub leg), reg 9(7) — International Covenant on Civil and Political Rights, art 14(1) — Bill of Rights, art 10
R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [HCt] 400
R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [CA] 415

Right to a fair and public hearing in the determination of one's rights and obligations in a suit at law — Disciplinary proceedings — Public hearing — Mandatory prescription that disciplinary proceedings be conducted in camera — Discretion to conduct public hearing — Legal Practitioners Ordinance (Cap 159), s 35A(3) — Bill of Rights, art 10
Re Anthony Chua [Barristers' Disciplinary Tribunal] 637

Right to be free from arbitrary deprivation of liberty

Strict liability offence — Whether abolition of mens rea requirement consistent with right — Bill of Rights, art 5(1)
Attorney General v Fong Chin-yue and others; R v Wang Shi-hung [CA] 430

Right to liberty and security of the person

Detention of witnesses in order to give evidence for prosecution at trial — Whether detention order could be made by consent if witnesses willing to testify — Vietnamese boatpeople — Immigration Ordinance (Cap 115), ss 13E, 32(4)(a), (b)
Attorney General v Pham Si Dung (No 1) [HCt] 799
Attorney General v Bui Thi Ngoan and others (No 1) [HCt] 824
Attorney General v Bui Thi Ngoan and others (No 2) [HCt] 832
Attorney General v Bui Thi Ngoan and others (No 3) [HCt] 837

Detention of witnesses in order to give evidence for defence at trial — Whether statutory power extended to defence witnesses — Vietnamese boatpeople — Hong Kong Bill of Rights, arts 5(1), 11(2)(e) — Immigra-

tion Ordinance (Cap 115), ss 13E, 32(4)(a), (b)
Attorney General v Pham Si Dung (No 2) [HCt] 813

Whether guarantee provides protection against search of premises and seizure of property — Bill of Rights, art 5(1)
R v Yu Yem-kin [HCt] 75

Whether guarantees procedural in nature — Deprivation of travel document — Bill of Rights, art 5 — Prevention of Bribery Ordinance (Cap 201), ss 17A, 17B
Re Nattrass [Mag] 234

Right to organise and bargain collectively

Trade Union Act (1992) — Unions required to further socialist modernisation — Single trade union structure nation-wide — Whether a violation of the right to freedom of association and the right to bargain and organise collectively — PRC Trade Union Act 1992
Case No 1652 v China; Complaint against the Government of China presented by the International Confederation of Free Trade Unions (ICFTU) [ILO] 736

Right of peaceful assembly

Whether the guarantee of the right of peaceful assembly applies to unlawful assembly — "peaceful assembly" — "unlawful assembly" — Public Order Ordinance (Cap 245), s 18 — Bill of Rights, art 17
R v To Kwan-hang and Tsoi Yiu-cheong [CA] 356

Rights of persons belonging to minorities

Right of members of minority, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language — International Covenant on Civil and Political Rights, art 27
General comment 23(50) [Hum Rts Com] 1

Rights of persons charged with or convicted of criminal offence

Whether s 4 of the Fixed Penalty (Traffic Contraventions) Ordinance involves a criminal offence — "criminal charge" — Bill of Rights, art 11(1) — Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240), ss 3A(4), 3B(4) — Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237), ss 4, 14
R v Crawley [HCt] 62

Right to be presumed innocent until proved guilty according to law

Applicability — Post-conviction — Whether presumption of innocence is capable of extending beyond conviction — Meaning of "criminal charge" — Confiscation order — Assumptions under Drug Trafficking (Recovery of Proceeds) Ordinance relating to assessment of benefits and proceeds from drug trafficking —Whether assumptions consistent with the presumption of innocence — Bill of Rights, art 11(1)
R v Ko Chi-yuen [CA] 152

Applicabililty — Pre-charge — Whether a suspect under investigation by the ICAC is a person charged with a criminal offence within the meaning of the Bill of Rights — Whether guarantee only comes into play after charge — Bill of Rights, art 11(1) — Prevention of Bribery Ordinance (Cap 201), s 17A
Re Nattrass [Mag] 234

Adverse pre-trial publicity — Whether a violation of the right to be presumed innocent — Whether stay of proceedings just and appropriate remedy — Bill of Rights, art 11(1)
R v Lo Chak-man (No 2) [HCt] 466

Offence of being in possession of goods reasonably suspected of being stolen — Provision held repealed by appellate courts after defendant convicted — Whether leave to appeal out of time should be granted — Whether appeal should be allowed — Summary Offences Ordinance (Cap 228), s 30 — Hong Kong Bill of Rights Ordinance (Cap 383), s 3(2) — Bill of Rights, art 11(1)
R v Kwok Hing-man [CA] 186

Offence of maintaining a living standard above that commensurate with official emoluments — Requirement that defendant give a satisfactory explanation to the court — Presumption of corruption in the absence of satisfactory explanation — Whether absence of satisfactory explanation an element of the offence — Whether reversal of onus reasonably imposed — Whether consistent with presumption of innocence — Proportionality — Bill of Rights, arts 10, 11(1), 11(2)(g) — Prevention of Bribery Ordinance (Cap 201), s 10(1)(a)
R v Hui Kin-hong Harry [DCt] 581

Presumptions — Presumption of a person gambling in a gambling establishment — "gambling establishment" — Rationality — Proportionality — "according to law" — Bill of Rights, art 11(1) — Gambling Ordinance (Cap 148), s 19(2)
R v Choi Kai-on [CA] 105

Presumptions — Presumption of being an unauthorized entrant in the absence of evidence to the contrary — Evidential burden — Whether consistent with the right — Immigration Ordinance (Cap 115), s 37K(1) — ICCPR, art 14(2) — Bill of Rights, art 11(1)
R v Chan Chak-fan [CA] 115

Presumptions — Mandatory presumption of fact — Presumption of dutiable goods until the contrary is proved — Whether consistent with the Bill of Rights — Dutiable Commodities Ordinance (Cap 109), s 40(a) — Bill of Rights, art 11(1)
Attorney General v Fong Chin-yue and others;
R v Wang Shi-hung [CA] 430

Proof of previous criminal conviction — Certificate of authorized police officer deemed to be evidence of the facts stated therein until the contrary is proved — Whether consistent with the right to be presumed innocent — Criminal Procedure Ordinance, s 63 (Cap 221) — Bill of Rights, art 11(1)
R v Wong Wai [Mag] 245

Reverse onus provisions — Assumptions — Court's discretion to make assumptions — "rational" — "realistic" — "proportional" — Bill of Rights, art 11(1)
R v Ko Chi-yuen [CA] 152

Reverse onus provisions — Possession of offensive weapon or other implement — Requirement to give satisfactory account of possession — Whether primary responsibility for proving guilt remains with prosecution — Whether departure from general rule reasonable — "satisfactory account" — Bill of Rights, art 11(1) — Summary Offences Ordinance (Cap 228), s 17
R v Chong Ah-choi and others [CA] 375

Right to a fair trial — Presumption of innocence — Summing up — Direction to jury that evidence of the accused should be subject to special scrutiny for no reason other than that she was the accused undermined the presumption of innocence
R v Leung Kit-chun [CA] 38

Strict liability offence — Whether imposition of liability to pay a fixed penalty irrespective of responsibility for contravention of an Ordinance consistent with presumption of innocence — Bill of Rights, art 11(1) — Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237), s 20(1) — Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240), ss 3A(4), 3B(4) — Magistrates Ordinance (Cap 227), s 68
R v Crawley [HCt] 62

Strict liability offences — Where strict liability the result of interpretation in accordance with *Gammon* criteria consistent with the Bill of Rights — Dutiable Commodities Ordinance (Cap 109), s 17 — Bill of Rights, art 11(1)

Attorney General v Fong Chin-yue and others; R v Wang Shi-hung [CA] 430

Strict liability offence — Defence — Offence of being in charge of a construction site on which illegal immigrants are found — Defence that construction site controller took all practicable steps to prevent — Whether consistent with the presumption of innocence — International Covenant on Civil and Political Rights — Hong Kong Bill of Rights, art 11(1)

R v Dragages et Travaux [Mag] 601

Strict liability offence — Defence — Legal burden on the construction site controller charged with illegal immigrants being on the site — Whether consistent with the presumption of innocence — International Covenant on Civil and Political Rights, art 14(2) — Hong Kong Bill of Rights, art 11(1)

R v China State Construction Engineering Corporation [Mag] 716

Rights to protection of privacy and correspondence

Closure order — Whether a violation of the right to privacy — Buildings Ordinance (Cap 123), s 27(1)(a)(ii) — Bill of Rights, art 14

Business Rights Ltd v Building Authority [CA] 43

Entry, search and seizure — Power to enter premises without warrant on basis of reasonable suspicion of presence of article liable to seizure — Whether warrantless search and seizure consistent with Bill of Rights — Whether independent scrutiny of justifiability required by Bill of Rights in some or all circumstances — Lack of warrant requirement and of specific circumstances under which warrantless entry permissible inconsistent with Bill of Rights — "arbitrary" — "unlawful" — Bill of Rights, art 14 — Dangerous Drugs Ordinance (Cap 134), s 52(1)(e)

R v Yu Yem-kin [HCt] 75

Telephone tapping — Whether interception of telephone communications a violation — Bill of Rights, art 14

Re Thanat Phaktiphat [HCt] 652

Right to strike

Whether exclusion of right to strike consistent with guarantees of free-

dom of association
Case No 1652 v China; Complaint against the Government of China presented by the International Confederation of Free Trade Unions (ICFTU) [ILO] 736

Right to vote and to be elected without unreasonable restrictions

Reasonable restriction — Whether requirement of ten years' continuous ordinary residence immediately before the date of nomination an unreasonable restriction of the right to be elected — Electoral Provisions Ordinance (Cap 367), s 18(2) — Bill of Rights, arts 21, 22
R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [HCt] 400
R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [CA] 415

Bribery

Restriction on disclosure of details of an ICAC investigation — Whether mens rea required — Whether suspicion or allegation must be reasonable — Whether consistent with Bill of Rights — Freedom of expression — "alleged" — "suspected" — Prevention of Bribery Ordinance (Cap 201), s 30
R v Ming Pao Newspapers Ltd [Mag] 621

Building

Demolition order — Closure order — Whether grant of closure order by the District Judge involves a determination of rights and obligations in a suit at law — Composition of Appeal Tribunal — Whether Appeal Tribunal an independent and impartial tribunal — Whether possibility of Appeal Tribunal dismissing the appeal without an oral hearing violates the right to a fair hearing — Whether closure order amounts to an arbitrary or unlawful interference with privacy — Bill of Rights, arts 10, 14 — Buildings Ordinance (Cap 123), ss 27(1)(a)(ii), 43(2) — Appeal Tribunal Rules (Cap 123 sub leg), rr 1, 2
Business Rights Ltd v Building Authority [CA] 43

Children

Illegitimacy — Legitimacy — Whether distinctions drawn between legitimate and illegitimate children consistent with Bill of Rights
L v C [HCt] 388

Constitutional law

Boundaries of Hong Kong — "Hong Kong" — Whether boat in the part of Deep Bay where Hong Kong police refrained from patrolling was already in Hong Kong — Interpretation and General Clauses Ordinance (Cap 1), s 3, Schedule 2 — Immigration Ordinance, s 37C(1)(a)
R v Chan Chak-fan [CA] 115

Prerogative of mercy — Power of Governor to remit sentence — Whether proper to involve the executive in the sentencing process to give proper discount for sentence for the accused's co-operation to testify in other subsequent trials — Prison Rules (Cap 234 sub leg), r 69
R v Governor, ex parte Reid [CA] 18

Contempt of court

Contempt not committed in the face of the court — Appropriate procedure reference of matter to the Attorney General — Rules of the Supreme Court, O 52
R v Wong Sik-ming [DCt] 488

Newspaper publication of defendants' photographs where his identification an issue at trial — Publication amounted to contempt — "calculated to prejudice a fair trial"
R v Wong Sik-ming [DCt] 488

Contract

Creation — Offer to public — Acceptance by members of the public — Consideration — Whether government solicitation of submissions on electoral issues constitutes offer — Whether submission of views by members of public constitutes acceptance and creates binding contract — Reliance — Whether loss needs to be shown — Whether failure by government to publish submission a breach of contract — Remedy — Declaration — Not necessary to allege damage — Rules of the Supreme Court (Cap 4, sub leg), O 15, r 16

Yung Tak-lam, Philip v Governor [Christopher Patten] and others [HCt] 885

Coroner

Inquest — Death by unlawful killing — Reckless — Unlawful killing — Obvious risk — Serious risk — Whether subjective or objective test to be applied

R v Her Majesty's Coroner of Hong Kong W B G Banks, ex parte Lai Shu-wing and others [HCt] 782

Inquest — Directions to jury — Verdict

R v Her Majesty's Coroner of Hong Kong W B G Banks, ex parte Lai Shu-wing and others [HCt] 782

Corruption

Maintaining a standard of living not commensurate with official emoluments — Whether consistent with presumption of innocence — Prevention of Bribery Ordinance (Cap 201), s 10(1)(a) — Bill of Rights, art 11(1)C

R v Hui Kin-hong Harry [DCt] 581

Courts

Court of Appeal — Whether Court of Appeal has jurisdiction to hear an appeal against conviction where the applicant is committed by a magistrate for sentence to the High Court

R v Ng Kit-yuen [CA] 33

Court of Appeal — Inherent jurisdiction — Substituted offence — Whether appeal court has jurisdiction to substitute conviction for offence of assisting the passage of unauthorized entrants within Hong Kong for conviction of being a crew member of a ship which entered Hong Kong with unauthorized entrants on board —Criminal Procedure Ordinance (Cap 221), s 51(2), 83A — District Court Ordinance (Cap 336), s 83 — Supreme Court Ordinance (Cap 4), s 13(4)(a)

R v Chan Chak-fan [CA] 115

Court of Appeal — Inherent jurisdiction — Whether Court of Appeal has inherent jurisdiction to grant bail to asylum-seekers lawfully detained under immigration legislation pending Crown's appeal against their successful challenge to decision to refuse refugee status

Re Le Tu Phuong and another [CA] 159

Court of Appeal — Whether Court of Appeal has jurisdiction to order a retrial when there was no valid trial before a court of competent jurisdiction
R v So Mun-sung [CA] 318

High Court — Jurisdiction — Wardship jurisdiction — Wardship jurisdiction extending to aliens physically present in Hong Kong — Whether court should exercise wardship jurisdiction which might interfere with implementation of immigration decision
Re a Minor [HCt] 667

Magistrates Court — Procedure — Whether magistrate conducting committal under Part III of the Magistrate's Ordinance has jurisdiction to rule on the admissibility of evidence — Power of magistrate to exclude evidence — Whether there is a difference between committal proceedings and extradition proceedings — Magistrate's Ordinance (Cap 227), Part III — Extradition Act 1989 (UK), Schedule 1, clause 6(1)
Re Thanat Phaktiphat [HCt] 652

Stare decisis — Effect of decision of inferior court declaring provision repealed — Subject to contrary decision by superior court — Relevance of Attorney General's views on validity of the provision — Unsatisfactory nature of such a position — Hong Kong Bill of Rights Ordinance (Cap 383), s 3(2)
R v Anastasius Chiu [CA] 457

Criminal law and procedure

Accused convicted subject to further argument on Bill of Rights issues — Whether conviction valid
R v Ng Ming [HCt] 908

Appeals — Appeal against conviction out of time — Whether leave should be granted — Appeal on point of law — Point overlooked by legal advisers in previous application for leave to appeal against sentence — Interests of justice
R v Ng Kit-yuen [CA] 33

Appeals — Appeal against conviction of possession of a dangerous drug for the purpose of trafficking therein — Summing up — Direction to jury that evidence of the accused should be subject to special scrutiny for no reason other than she was the accused — Whether consistent with common law presumption of innocence
R v Leung Kit-chun [CA] 38

Appeals — Leave to appeal out of time — Conviction of non-existent offence — Appeal against conviction under provision subsequently declared by appellate courts to have been repealed by Bill of Rights before conviction of defendant — Hong Kong Bill of Rights Ordinance (Cap 383), s 3(2)
R v Kwok Hing-man [CA] 186

Appeals — Court of Appeal — Jurisdiction to order a retrial — "fresh indictment" — "retrial" — Governor's consent for the institution of proceedings — Appeals — Court of Appeal — Crimes Ordinance (Cap 200), s 23(C) — Criminal Procedure Ordinance (Cap 221), s 83E
R v So Mun-sung [CA] 318

Appeals — Court of Appeal — Whether criminal jurisdiction of the Court of Appeal includes power to hear appeals from proceedings which are claimed to be a nullity
R v So Mun-sung [CA] 318

Appeals — Convictions — Substitution of conviction for another offence — Whether open to court to substitute conviction under another limb of same section where limb under which charge was made is declared repealed — Summary Offences Ordinance (Cap 228) , s 17
R v Chong Ah-choi and others [CA] 375

Bail pending appeal — Asylum-seekers — Refusal of refugee status — Decision successfully challenged in judicial review proceedings — Whether Court of Appeal had jurisdiction to grant bail pending appeal by government — Whether bail should be granted
Re Le Tu Phuong and another [CA] 159

Confiscation proceedings — Confiscation proceedings not involving determination of a criminal charge — "criminal charge" — Prison term being enforcement of order for payment and not as punishment for drug trafficking — Drug Trafficking (Recovery of Proceeds) Ordinance, ss 4(2) and 4(3)
R v Ko Chi-yuen [CA] 152

Courts — Powers of District Court — Power at common law to order restrictions on publication — Contempt of Court Act 1981 (UK), s 4(2) — Criminal Procedure Ordinance (Cap 221), ss 122, 123
R v Wong Sik-ming [DCt] 488

Criminal offences — Possession of forged instrument — Whether an instrument — "instrument" — "die" — Crimes Ordinance (Cap 200), s 68
R v Tai Yiu-wah [CA] 56

Criminal offences — Obstruction of road — Whether obstruction where road blocked by other vehicles — "parking place" — Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237), ss 4, 7(1) — Road Traffic (Parking) Regulations (Cap 374 sub leg), reg 2(1)
R v Crawley [HCt] 62

Criminal offences — Unlawful assembly — Active participation required for an offence of unlawful assembly — Reasonable fear of breach of the peace — Whether reasonable fear exists to be determined by an objective test — breach of the peace — Public Order Ordinance (Cap 245), s 18
R v To Kwan-hang and Tsoi Yiu-cheong [CA] 356

Criminal offences — Possession of offensive weapon — Defence of lawful excuse or justification — Whether consistent with presumption of innocence — Whether definition of offensive weapon too broad — Possible to excise words from definition to render it consistent with Bill of Rights — "offensive weapon" — "suitable" — Public Order Ordinance (Cap 245), ss 2, 33
R v Chong Ah-choi and others [CA] 375

Criminal offences — Possession of offensive weapon or other articles — Whether offence consistent with Bill of Rights — Consistent with Bill of Rights so far as prosecution required to prove unlawful purpose — Requirement that accused prove innocent possession inconsistent with Bill of Rights — Bill of Rights, art 11(1) — Summary Offences Ordinance (Cap 228), s17
R v Chong Ah-choi and others [CA] 375

Criminal offences — Mens rea — Strict liability offences — Whether consistent with Bill of Rights — Whether offences interpreted as strict liability offences as a result of application of *Gammon* criteria consistent with the Bill of Rights — "truly criminal" — Dutiable Commodities Ordinance (Cap 109) — Bill of Rights, arts 5(1), 11(1)
Attorney General v Fong Chin-yue and others;
R v Wang Shi-hung [CA] 430

Criminal offences — Offence of being a construction site controller of a site on which an illegal immigrant is found — Elements of the offence — Whether element of the offence includes the defence that the controller took all practicable steps to prevent the illegal immigrant from being on the construction site — Hong Kong Bill of Rights, arts 11(1), 22 — Immigration Ordinance (Cap 115), s 38A
R v Dragages et Travaux [Mag] 601
R v China State Construction Engineering Corporation [Mag] 716

Defences — Strict liability offences — Defence of honest and reasonable belief available to offence of strict liability — Dutiable Commodities Ordinance (Cap 109), s 17

Attorney General v Fong Chin-yue and others; R v Wang Shi-hung [CA] 430

Defences — Defence as element of strict liability offence — Statutory defence for strict liability offence — Whether element of the offence includes the defence that the controller took all practicable steps to prevent the illegal immigrants from being on the construction site — Hong Kong Bill of Rights, arts 11(1), 22 — Immigration Ordinance (Cap115), s 38A

R v Dragages et Travaux [Mag] 601

R v China State Construction Engineering Corporation [Mag] 716

Evidence — Witnesses — Testimony of accused — "Suspect witness" — Whether tests applicable to witnesses in a criminal trial same where accused is witness — *Broadhurst* direction

R v Leung Kit-chun [CA] 38

Evidence — Unlawfully obtained evidence — Discretion of court to exclude — Evidence obtained in exercise of power under statutory provision held inconsistent with Bill of Rights — Exclusion not automatic — Factors to be considered — Technical infringement of protected right — No unfairness, injustice or prejudice to defendant — Dangerous Drugs Ordinance (Cap 134), s 52(1)(e)

R v Yu Yem-kin [HCt] 75

Evidence — Onus of proof — Presumptions — Mandatory presumption of fact — Whether legislature bound to choose the least intrusive means — Reverse onus — Rebuttal of presumption — Presumption of innocence — Rational connection — Proportionality

R v Choi Kai-on [CA] 105

Evidence — Onus of proof — Presumptions — Mandatory presumptions of fact — Consistency with Bill of Rights — Possession of dangerous drugs for the purpose of trafficking — Presumption of possession — Presumption of innocence — Possession of key to motor vehicle — Presumption of knowledge — Physical possession — Dangerous Drugs Ordinance (Cap 134), ss 8, 47(1), 47(2)

R v Lum Wai-ming [CA] 497

Gambling offences — Comparative severity of gambling, drug and import/export offences — Presence in a gambling establishment — Inference drawn from defendant's presence when illegal acts are committed —

"gambling establishment" — Gambling Ordinance (Cap 148), ss 2, 19(2) — Bill of Rights, art 11(1)
R v Choi Kai-on [CA] 105

Immigration offences — Whether consent of both Governor and Attorney General to institution of proceedings required — Crimes Ordinance (Cap 200), s 23C — Immigration Ordinance (Cap 115), ss 37C(1), 37L — Territorial Waters Jurisdiction Act 1878 (UK), ss 3, 4
R v Ng Kit-yuen [CA] 33

Missing exhibit — Whether duty to produce non-documentary exhibits at trial mandatory or directory — Whether fair trial possible — Whether reasonable possibility that the destruction or loss of evidence would impair the defendant's ability to make full answer and defence to the charge — Stay of proceedings — Bill of Rights, arts 10, 11(2)(b) — Magistrates Ordinance (Cap 227), s 86(4)
R v Chu Kam-to and another [HCt] 472

Order to surrender travel documents — Requirement that person apply to ICAC Commissioner for return of documents consistent with Bill of Rights — Requirement to show undue hardship before court — "undue hardship" — Prevention of Bribery Ordinance (Cap 201), s 17B(5)
Re Tin Sau-kwong [Mag] 917

Practice — Concurrent civil proceedings seeking judicial review of decision having bearing on issue in criminal proceedings — Declaration not to be granted if such would preempt or prejudice criminal proceedings
R v Obscene Articles Tribunal, ex parte Loui Wai-po and Ming Pao Holdings Ltd [HCt] 5

Right to a fair trial — Presumption of innocence — Summing up — Direction to jury that evidence of the accused should be subject to special scrutiny for no reason other than that she was the accused undermined the presumption of innocence
R v Leung Kit-chun [CA] 38

Sentencing — Remission of sentence given by executive less than that suggested by sentencing judge — Whether Court of Appeal should consider circumstances that had occurred since sentence was passed — Whether decision of Governor could be challenged on the ground of irrationality
R v Governor, ex parte Reid [CA] 18

Sentencing — Offence carrying a maximum penalty of 14 years' imprisonment replaced by new offence carrying maximum penalty of 3 years'

imprisonment respectively — Sentence imposed in excess of 3 years — Bill of Rights entitling sentencing on basis of lesser maximum — Crimes Ordinance (Cap 200), LHK 1984 ed, s 76(2) — Crimes Ordinance (Cap 200), ss 75(2)
R v Tai Yiu-wah [CA] 56

Sentencing — Offence carrying a maximum penalty of 14 years' imprisonment replaced by new offence carrying maximum penalty of 3 years' imprisonment respectively — Sentence of 2 years imposed on basis of 14-year maximum — Whether Bill of Rights entitled defendant to be sentenced on basis of lower maximum — Crimes Ordinance (Cap 200), LHK 1984 ed, s 76(1) — Crimes Ordinance (Cap 200), ss 100(2) — Crimes (Amendment) Ordinance 1992 (No 49 of 1992)
R v Tai Yiu-wah [CA] 56

Sentencing — Length of sentence — Taking into account of term already served — Sentencing by lower courts
R v Choi Kai-on [CA] 105

Sentencing — Previous record of criminal conviction — Whether proof of previous criminal conviction by certificate of an authorized police officer consistent with the Bill of Rights — Previous judicial guidelines on sentencing Chinese illegal immigrants to be applied with flexibility — Criminal Procedure Ordinance, s 63 — Bill of Rights, arts 11(1), 11(2)(e)
R v Wong Wai [Mag] 245

Sentencing — Offence carrying a maximum penalty of 14 years' imprisonment replaced by new offence carrying maximum penalty of 3 years' imprisonment respectively — Sentence of 2 years imposed on basis of 14-year maximum — Whether Bill of Rights entitled defendant to be sentenced on basis of lower maximum — Crimes Ordinance (Cap 200), LHK 1984 ed, s 76A(1) — Crimes Ordinance (Cap 200), ss 76(1), (2) — Crimes (Amendment) Ordinance 1992 (No 49 of 1992)
R v Yau Chi-keung [CA] 453

Strict liability offences — Whether consistent with Bill of Rights — Hong Kong Bill of Rights, arts 11(1), 22 — Immigration Ordinance (Cap 115), s 38A
R v Dragages et Travaux [Mag] 601

Witnesses — Missing witnesses
R v Yeung Chi-chiu and another [DCt] 677

Witnesses — Detention of witnesses to ensure availability at trial — Conditions precedent to exercise of power by court — Vietnamese boat

people detained in order to give evidence for the Crown — Immigration Ordinance (Cap115), ss 13 E, 32(4)
Attorney General v Pham Si Dung (No 1) [HCt] 799

Witnesses — Detention of witnesses to ensure availability at trial — Whether power available to detain witnesses for the defence — Immigration Ordinance (Cap 115), ss 13 E, 32(4)
Attorney General v Pham Si Dung (No 2) [HCt] 813

Witnesses — Detention of witnesses to ensure availability at trial — Principles to be applied by court in deciding on application — Vietnamese boat people detained in order to give evidence for the Crown — Immigration Ordinance (Cap 115), ss 13 E, 32(4)
Attorney General v Bui Thi Ngoan and others (No 1) [HCt] 824
Attorney General v Bui Thi Ngoan and others (No 2) [HCt] 832
Attorney General v Bui Thi Ngoan and others (No 3) [HCt] 837

Witnesses — Repatriation of defence witnesses to China before trial — Whether witnesses could be detained under provisions providing for detention of prosecution witnesses — Whether Director of Immigration could detain them or permit them to enter into a recognizance — Whether witness summons necessary for Director of Immigration to detain witnesses with their consent pending trial — Immigration Ordinance (Cap 115) , ss 32(4), 36
R v Ng Ming [HCt] 908

Customs and excise

Dutiable commodities — Possession of dutiable goods other than in accordance with provisions of Dutiable Commodities Ordinance — Whether strict liability offence — Whether defence of honest and reasonable belief available — Dutiable Commodities Ordinance (Cap 109), s 17 — Bill of Rights, art 11(1)
Attorney General v Fong Chin-yue and others;
R v Wang Shi-hung [CA] 430

Elections

Administration — Returning officer — Undesirable to leave difficult questions such as whether a prospective candidate is or is not ordinarily resident in Hong Kong to an administrative officer acting as returning officer
R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [HCt] 400

R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [CA] 415

Candidates — Qualifications — Election petition — Whether judicial review prior to election challenging the decision of returning officer disqualifying a prospective candidate an alternative remedy to election petition — Whether the court should exercise discretion to entertain judicial review before the election — Boundary and Election Commission (Electoral Procedure) (Geographical Constituencies) Regulations (Cap 432, sub leg), reg 9(7) — Boundary and Election Commission Ordinance (Cap 432), s 7 — Electoral Provisions Ordinance (Cap 367), s 30

R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [HCt] 400
R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [CA] 415

Qualifications — Ordinary residence — Whether involuntary imprisonment in China for counter-revolutionary crime disrupts ordinary residence in Hong Kong — Electoral Provisions Ordinance (Cap 367), s 18(2)

R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [HCt] 400
R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [CA] 415

Qualifications — Whether requirement of ten year's continuous ordinary residence immediately before the date of nomination an unreasonable restriction of the right to be elected — "ordinary residence" — Electoral Provisions Ordinance (Cap 367), s 18(2) — Bill of Rights, art 22

R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [HCt] 400
R v Apollonia Liu, ex parte Lau San-ching; R v Thomas Chow Tat-ming, ex parte Eric Chan Po-ming; R v Thomas Chow Tat-ming, ex parte Richard Fung Chan-ki [CA] 415

Employment

Civil servants — Contract of service of civil servant — Whether an employment relationship and governed by private law or a matter of

public law
R v Commissioner of Correctional Services, ex parte Ngai Fook-lam [HCt] 854

Evidence

Admissibility — Committal proceedings —Power of magistrate to exclude evidence
R v Cho Shu-wah [HCt] 514

Admissibility — Computer records — Conditions of admissibility — Power of trial judge to order oral evidence to be given — Whether provision inconsistent with right to examine or have examined witnesses against one — "prima facie" — Evidence Ordinance (Cap 8), ss 22A(1), (7) — Hong Kong Bill of Rights, art 11(2)(e)
R v Chow Chai-sang [DCt] 592

Admissibility — Judge's power to reconsider admissibility of evidence at the stage of closing speech
R v Chow Chai-sang [DCt] 592

Exhibits — Production of exhibits — Whether duty to produce non-documentary exhibits at trial mandatory or directory — Magistrates Ordinance (Cap 227), s 86(4)
R v Chu Kam-to and another [HCt] 472

Lies — Relevance to establishing guilty knowledge of accused — Not to be relied on as direct evidence — Whether trial judge relied on lies as direct evidence
R v Anastasius Chiu [CA] 457

Extradition

Admissibility of evidence — Admissibility of photograph containing prejudicial and unnecessary information — Relevance of photograph — Whether photograph of suspect wrongly admitted as evidence where without such photograph there would have been no evidence to link the applicant to the two charges in question
R v Cho Shu-wah [HCt] 514

Admissibility of evidence — Whether duty of magistrate in an extradition proceedings to exclude relevant evidence because of certain prejudicial effect — Whether appropriate to use photograph to establish

prima facie identity at an extradition hearing
R v Cho Shu-wah [HCt] 514

Admissibility of evidence — Whether appropriate to apply exactly the same rules of evidence as would be applied in a committal proceeding — Application of Bill of Rights to extradition proceedings — Extradition Act 1989 (UK), Schedule 1, clause 6(1)
Re Thanat Phaktiphat [HCt] 652

Letters of request — Whether proceedings in requesting country are of a political character — Whether test applicable in extradition proceedings should apply to letters of request — Whether foreign proceedings of a political character — Expert evidence — Weight to be given to evidence as to historical and political background of the requesting country — "political character" — "proceeding" — "criminal matter" — "criminal proceedings of a political character" — Evidence Ordinance (Cap 8), s 77B (3)
Crown Solicitor, The v Datuk Jeffrey Kitingan [HCt] 860

Procedure — Habeas corpus — Grounds on which court hearing habeas corpus application permitted to review the decision of a magistrate to commit fugitive to await surrender — Whether facts which emerge subsequent to extradition hearing can be relied on to impugn magistrate's decision — Supreme Court Ordinance (Cap 4) s 23(1)
Re Thongchai Sanguandikul and the Government of the United States of America and another (No 2) [CA] 768

Family law

Affiliation proceedings — Child support — Illegitimate children — Whether mother of illegitimate child subject to time limit in applying for financial provision from putative father — Conflict between Guardianship of Minors Ordinance (Cap 13) as amended by the Parent and Child Ordinance (Cap 429) and Affiliation Proceedings Ordinance (Cap 183) — Legislative history — Legislative intention to put legitimate and illegitimate children on same footing — Affiliation Proceedings Ordinance (Cap 183), ss 4 — Guardianship of Minors Ordinance (Cap 13), s 10 — Hong Kong Bill of Rights, arts 20, 22 — Parent and Child Ordinance (Cap429)
L v C [HCt] 388

Affiliation proceedings — Evidence — Requirement of corroboration of mother's evidence as to paternity of putative father — Whether consistent with Bill of Rights — Reasonable and proportionate measure — Affiliation Proceedings Ordinance (Cap 183), s 5 — Hong Kong Bill of

Rights, arts 20, 22
L v C [HCt] 388

Habeas corpus

Extradition proceedings — Function of the judge in habeas corpus application
R v Cho Shu-wah [HCt] 514

Extradition proceedings — Renewed application — Fresh evidence — Whether evidence available to applicant since extradition hearing may be relied on to impeach the decision of the magistrate to commit fugitive to await surrender — "fresh evidence" — Supreme Court Ordinance (Cap 4) s 23(1)
Re Thongchai Sanguandikul and the Government of the United States of America and another (No 2) [CA] 768

High Court

Jurisdiction over matters on appeal from Obscene Articles Tribunal — Decisions on points of law — Powers — Whether High Court has power to order Tribunal to reconsider its determination on obscenity — Power when Tribunal had erred by considering irrelevant matters, or failed to consider important or relevant matters — Control of Obscene and Indecent Articles Ordinance (Cap 390), s 29
R v Obscene Articles Tribunal, ex parte Hui Siu-yan and others [Obscene Articles Tribunal] 901

Human rights

Domestic jurisdiction — Non-interference in matters essentially within domestic jurisdiction —China — Whether hearing of complaint violation of non-interference principle
Case No 1652 v China; Complaint against the Government of China presented by the International *Confederation of Free Trade Unions (ICFTU)* [ILO] 736

Immigration

Application for a change of status on the basis of marriage — Whether genuine relationship of man and wife existed — Burden of proof on the

applicant to satisfy the immigration officer of the existence of a genuine marriage — Standard of proof that of balance of probabilities
R v Director of Immigration, ex parte Du Gui Fang [HCt] 562

Asylum-seekers — Refusal of refugee status — Decision successfully challenged in judicial review proceedings — Whether Court of Appeal had jurisdiction to grant bail pending appeal by government — Whether bail should be granted
Re Le Tu Phuong and another [CA] 159

Asylum-seekers — Procedure for determining claim to refugee status — Whether immigration officer obliged to read back record of interview to applicants in all cases — Circumstances in which read back necessary — Desirability of read back
R v Director of Immigration, ex parte Le Tu Phuong and another [CA] 337

Director of Immigration — Powers — Exercise of discretion — Whether required to comply with provisions of unincorporated treaty — Whether required to take provisions of treaty into account — Statelessness — Relevance of possible statelessness apart from treaty — Convention Relating to the Status of Stateless Persons 1954, art 31
R v Director of Immigration, ex parte Simon Yin Xiang-jiang and other [CA] 265

Director of Immigration — Discretion to permit illegal immigrant to remain in Hong Kong on humanitarian grounds — "humanitarian grounds" — Immigration Ordinance (Cap 115), s 13
R v Director of Immigration, ex parte Cheung Kuk-ching [HCt] 542

Immigration Offences — Being captain of a ship on which an unauthorised entrant enters Hong Kong — Consent of Governor and Attorney General required to institution of proceedings — Immigration Ordinance (Cap 115), ss 37C(1), 37L — Crimes Ordinance (Cap 200), s 23C — Territorial Waters Jurisdiction Act 1878 (UK), ss 3, 4
R v Ng Kit-yuen [CA] 33

Immigration Offences — Assisting the passage of an unauthorized entrant within Hong Kong — Whether this offence can be substituted for offence of being a crew member of a ship which entered Hong Kong with unauthorized entrants on board — Whether consent to prosecution of one offence sufficient in relation to consent required for prosecution of the substituted offence — Crimes Ordinance (Cap 200), s 23C — Immigration Ordinance (Cap 115), ss 37C(1)(a), 37D(1)(a), 37L
R v Chan Chak-fan [CA] 115

Immigration Offences — Being a crew member of a ship which entered Hong Kong with unauthorized entrants on board — Whether persons in possession of "Sea-going Boat Person Certificates" issued by the Chinese Government are unauthorized entrants — "unauthorized entrant" — Immigration Ordinance (Cap 115), ss 37A, 37C(1)(a) — Immigration (Unauthorized Entrants) Order (Cap 115 sub leg), para 2(1)(aa)
R v Chan Chak-fan [CA] 115

Immigration Tribunal — Duty to give reasons — Adequacy of reasons given — Requirement to consider all the material evidence — Immigration Ordinance (Cap 115), s 53D
R v Immigration Tribunal, ex parte Tsang Yau-chiu and others [HCt] 500

Power to detain person in Hong Kong in order to give evidence — Existence of order of Director of Immigration pre-condition to making of detention order by Secretary for Security and subsequent order by court — Immigration Ordinance — Immigration Ordinance (Cap 115), ss 13E, 32(4), 36(1)
Attorney General v Pham Si Dung (No 1) [HCt] 799

Power to require a person liable to be detained to enter into a recognizance — Power enjoyed only by immigration and police officers — No power of the court to make such an order — Immigration Ordinance (Cap 115), s 36(1)
Attorney General v Pham Si Dung (No 1) [HCt] 799
Attorney General v Bui Thi Ngoan and others (No 1) [HCt] 824

Power to detain person in Hong Kong in order to give evidence — Immigration Ordinance (Cap 115), ss 13E, 32(4), 36(1)
Attorney General v Pham Si Dung (No 2) [HCt] 813
Attorney General v Bui Thi Ngoan and others (No 1) [HCt] 824
Attorney General v Bui Thi Ngoan and others (No 2) [HCt] 832
Attorney General v Bui Thi Ngoan and others (No 3) [HCt] 837

Presence of illegal immigrants on construction site — Liability of construction site controller when illegal immigrant found on construction site — Whether offence consistent with Bill of Rights — Hong Kong Bill of Rights, arts 11(1), 22 — Immigration Ordinance (Cap 115), s 38A
R v Dragages et Travaux [Mag] 601
R v China State Construction Engineering Corporation [Mag] 716

Refugees — Minor — Unaccompanied minor — Ward of court — Removal order — Vietnamese refugee — Decision of Director of Immigration to remove unaccompanied minor — Wardship application conflicting with

Immigration decisions — Immigration Ordinance (Cap 115), s 13D
Re a Minor [HCt] 667

Review of decisions — Decisions to order removal of persons without right to enter and remain in Hong Kong not reviewable under the Bill of Rights — Immigration Ordinance (Cap 115), ss 13, 19 — Hong Kong Bill of Rights Ordinance (Cap 383), s 11
R v Director of Immigration, ex parte Hai Ho-tak; R v Director of Immigration, ex parte Wong Chung-hing and others [CA] 324

Right to remain in Hong Kong using a foreign passport obtained by false information — Marriage of such a person to a Hong Kong resident — Registration of a child to such a marriage under s 15(3) of the British Nationality Act 1981 (UK)
Re Chan Yat-fai and others [SCt] 481

Unauthorized entrants — Whether Director of Immigration has power to permit unauthorized entrants to stay in Hong Kong to testify on behalf of defence at criminal trial — Appropriate procedures — Immigration Ordinance (Cap 115) s 13
R v Ng Ming [HCt] 908

International law

Human rights — Domestic jurisdiction —China — Claim of non-interference in matters essentially within domestic jurisdiction —Whether hearing of complaint violation of principle of non-interference
Case No 1652 v China; Complaint against the Government of China presented by the International Confederation of Free Trade Unions (ICFTU) [ILO] 736

Relationship between domestic and international law — Treaties — Unincorporated treaties — Whether decision-maker required to comply with unincorporated treaty in the exercise of discretion — Wether decision-maker required to take provisions of treaty into account
R v Director of Immigration, ex parte Simon Yin Xiang-jiang and other [CA] 265

Statelessness — Revocation of passport and citizenship by foreign government with retrospective effect — Whether Director of Immigration should take into account international treaty obligation in exercising his discretion to permit a change of status — Convention Relating to the Status of Stateless Persons

R v Director of Immigration, ex parte Simon Yin Xiang-jiang and other [CA] 265

Treaties — Reservations — Test of compatibility — Object and purpose of treaty — Non-derogable rights — Jus cogens — Role of treaty body in determining compatibility — Effect of incompatibility — ICCPR — First Optional Protocol — Second Optional Protocol

General Comment No 24 (52) [Hum Rts Com] 727

Labour law

Freedom of Association — Right to organise and bargain collectively — Whether a violation of the right to freedom of association and the right to bargain and organise collectively

Case No 1652 v China; Complaint against the Government of China presented by the International *Confederation of Free Trade Unions (ICFTU)* [ILO] 736

Law reform

No appeal against refusal of the Director of Immigration to exercise his discretion to allow an illegal immigrant to stay in Hong Kong on humanitarian grounds — Immigration Ordinance (Cap 115), s 13

R v Director of Immigration, ex parte Hai Ho-tak; R v Director of Immigration, ex parte Wong Chung-hing and others [CA] 324

Legal Aid

Whether applicant justified in rejecting offer of Legal Aid legal assistance — Leave to apply for judicial review out of time where delay caused by applicant's rejection of offer of Legal Aid

R v Director of Immigration, ex parte Cheung Kuk-ching [HCt] 542

Legal profession

Disciplinary action — Personal advertising — Failure to discharge duty of a barrister by failing to respond to requests from the Bar Council for comments on a complaint — Whether the Hong Kong Bar Association in promulgating its Code of Conduct is acting as a "public authority" within the meaning of the Hong Kong Bill of Rights Ordinance — Bar's Code of

Conduct, paras 10(a), 101 — Bill of Rights Ordinance, s 7(1)
Re Anthony Chua [Barristers' Disciplinary Tribunal] 637

Marriage

Notification of marriage — "Satisfactory" evidence of the identity of the proposed party to a marriage — Whether refusal of the Marriage Registry to accept a notice of an intended marriage for failure to supply satisfactory evidence of the identity of a party to a marriage subject to judicial review — Identity of party to a marriage — False names — Party to marriage using false name — Marriage Ordinance (Cap 181)
Re Chan Yat-fai and others [HCt] 481

Validity of marriage — Right to marry and to respect for family life without discrimination — Hong Kong Bill of Rights, arts 1, 14, 19, 22 and 23
Re Chan Yat-fai and others [HCt] 481

Medical Council

Disciplinary proceedings — Whether power to proceed with disciplinary proceedings when the complainant had withdrawn the complaints — Whether duty to give reasons — Whether Crown Counsel can be appointed to prosecute in the absence of the complainant — Medical Practitioners (Registration and Disciplinary Procedure) Rules (Cap 161 sub leg), r 22
R v Medical Council of Hong Kong, ex parte Li Sum-wo [HCt] 548

Obscene and indecent articles

Obscene Articles Tribunal — Jurisdiction — Whether a photo appertaining to a written article an "article" — Nature of classification procedure — Informal procedure without conclusively determining any issue between the parties — Whether notice of classification should be served on the parties adversely affected by the classification — "Parties to the proceedings" — Control of Obscene and Indecent Articles Ordinance (Cap 390) — Control of Obscene and Indecent Articles Rules (Cap 390 sub leg), r 7(2)
R v Obscene Articles Tribunal, ex parte Loui Wai-po and Ming Pao Holdings Ltd [HCt] 5

Obscene Articles Tribunal — Jurisdiction — Exclusive jurisdiction to

determine whether articles are obscene or indecent — Whether Tribunal must give reasons why it concluded that articles are obscene or indecent — Application of standards of morality — Intent to be published — Control of Obscene and Indecent Articles Ordinance (Cap 390), s 10(1)(c)
R v Obscene Articles Tribunal, ex parte Hui Siu-yan and others [Obscene Articles Tribunal] 901

Public display of indecent matter — Precise question of referral to be made by magistrate, not by prosecuting officer — Duty on Tribunal to have regard to the dominant effect of matter as a whole — "matter" — Control of Obscene and Indecent Articles Ordinance (Cap 390), ss 1, 10, 23, 29
R v Obscene Articles Tribunal, ex parte Sum Mui-tai and another [HCt] 711

Reference to Obscene Articles Tribunal — Jurisdiction — Duty of magistrate to refer to tribunal precisely the question which the tribunal has to decide — Duty to have regard to the dominant effect of matter as a whole — Control of Obscene and Indecent Articles Ordinance (Cap 390), ss 29
R v Obscene Articles Tribunal, ex parte Sum Mui-tai and another [HCt] 711

Police

Powers and duties — Whether police have power to cordon off a public place to prevent a public assembly or public demonstration — Duties of the police — Police Force Ordinance (Cap 232), s 10 — Interpretation and General Clauses Ordinance (Cap 1), s 39(1)
R v To Kwan-hang and Tsoi Yiu-cheong [CA] 356

Practice and procedure

Application for leave to apply for judicial review — Delay — When time begins to run — Discretion to extend time limit — Rules of the Supreme Court (Cap 4, sub leg), O 53
R v Panel on Takeovers and Mergers and another, ex parte William Cheng Kai-man [HCt] 274

Application for leave to apply for judicial review — Proper test potential arguability
R v Panel on Takeovers and Mergers and another, ex parte William Cheng Kai-man [HCt] 274

Contempt of court — Refusal by witness to answer questions — "Body order" — Order that person be brought before court at end of trial to be dealt with — Whether order of custody — Evidence Ordinance (Cap 8), s 81(1)
Attorney General v Bui Thi Ngoan and others (No 3) [HCt] 837

Interim relief — Injunction — Factors to be considered
R v Panel on Takeovers and Mergers and another, ex parte William Cheng Kai-man [HCt] 274

Originating summons — Striking out originating summons — Scandalous, frivolous, vexatious — Originating summons as an abuse of process — Rules of the Supreme Court s 18, r 9
Re a Minor [HCt] 667

Originating summons — Seal — Effect of failure to seal originating notice of motion — RSC, O 8, r 3(6)
Attorney General v Bui Thi Ngoan and others (No 3) [HCt] 837

Pleadings — Statement of claim — Striking out — Abuse of process — Poorly drafted pleading — Particularity — Whether pleadings disclosed reasonable cause of action or were embarrassing — Whether defendants knew nature of case — Whether pleadings could be perfected by provision of particulars
Yung Tak-lam, Philip v Governor [Christopher Patten] and others [HCt] 885

Provision of information in court in camera and in the presence of the respondents' counsel but in the absence of the respondents
Attorney General v Bui Thi Ngoan and others (No 3) [HCt] 837

Precedent

Stare decisis — Court of Appeal — Whether Court of Appeal bound to follow earlier decisions
R v Tai Yiu-wah [CA] 56

Precedent — Whether Hong Kong High Court bound to follow English Court of Appeal where Hong Kong law does not materially differ
Re a Minor [HCt] 667

Public order

Breach of the peace — Reasonable fear of breach of the peace — Whether

direct evidence of fear of a breach of the peace required — Whether reasonable fear of breach of the peace could be proved by the evidence of police officers — Test for determining whether a reasonable fear exists an objective one — "breach of the peace"
R v To Kwan-hang and Tsoi Yiu-cheong [CA] 356

Unlawful assembly — Active participation as an element of the offence — Public Order Ordinance (Cap 245), s 18
R v To Kwan-hang and Tsoi Yiu-cheong [CA] 356

Refugees

Determination of status — Criteria to be applied — Standard of proof — UNHCR Guidelines — Difference between the United Kingdom and Hong Kong Schedules regarding the standard of procedural fairness to be adopted in the determination of applications by asylum-seeking — "refugee" — "well-founded fear of persecution" — "loss of nationality" — "refoulement"
R v Director of Immigration, ex parte Le Tu Phuong and another [CA] 337

Determination of status — Refugee screening procedure — Duties of immigration officers in carrying out screening procedure — Legitimate expectation of asylum seekers not to be treated as illegal immigrants until after the completion of screening procedure — Whether immigration officer obliged to read back record of interview to applicants in all cases — Circumstances in which read back necessary — Desirability of read back
R v Director of Immigration, ex parte Le Tu Phuong and another [CA] 337

Road traffic

Fixed penalty scheme — Whether involves criminal charge — Whether consistent with presumption of innocence — Whether different treatment of private drivers and Crown's drivers discriminatory — Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240), ss 3A(4), 3B(4) — Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237), ss 3(2), 14(1), 14(2), 20(1), 23(1), 24
R v Crawley [HCt] 62

Offences — Obstruction — Whether obstruction where road blocked by other vehicles — "parking place" — Fixed Penalty (Traffic Contraven-

tions) Ordinance (Cap 237), s 4 — Road Traffic (Parking) Regulations (Cap 374 sub leg), reg 2(1)
R v Crawley [HCt] 62

Search and seizure

Entry, search and seizure — Whether power to enter premises without a warrant on basis of reasonable suspicion inconsistent with Bill of Rights — Dangerous Drugs Ordinance (Cap 134), s 52(1)(e) — Bill of Rights, art 14
R v Yu Yem-kin [HCt] 75

Securities

Securities regulation — Breaches of Securities Ordinance — Stock Exchange disciplinary proceedings Stock Exchange — Disciplinary proceedings — Fair and impartial hearing — Right to legal representation — Failure to reveal identity of principal witness and failure to supply witness statement prior to hearing — Members of Disciplinary committee also members of Stock Exchange Council did not constitute bias — Bill of Rights, article 10
R v The Disciplinary Committee of the Stock Exchange *of Hong Kong Ltd, ex parte Onshine Securities Ltd* [HCt] 523

Statutes

Commencement — Retrospective effect — Application to proceedings involving events prior to commencement of statute — Dangerous Drugs Ordinance (Cap 134), s 47(2)
R v Lum Wai-ming [CA] 497

Interpretation — Presumption that legislation does not deprive a person of property rights without compensation — Distinction between legislation which confiscates land and that which merely regulates the use of land — Ambiguity resolved in citizen's favour where statutory provision is of a penal character — Town Planning Ordinance (Cap 131), ss 3(1)(b), 21
R v Town Planning Board, ex parte Auburntown Ltd [HCt] 194

Interpretation — Whether the absence of the words "as well as for the types of building" in s 3(1)(b) of the Town Planning Ordinance restricts the Town Planning Board from laying down restrictions on the types of

building and plot ratios in a development permission area plan — Expressio unius est exclusio alterius — Expressum facit cessare tacitum — Purposive approach to interpretation to be adopted — Interpretation and General Clauses Ordinance (Cap 1), s 19 — Town Planning Ordinance (Cap 131), ss 3(1)(a) and (b)
R v Town Planning Board, ex parte Auburntown Ltd [HCt] 194

Interpretation — Legislative history — Law Reform Commission's report and Hansard referred to as aids to interpretation — Parent and Child Ordinance (Cap 429), ss 6, 13
L v C [HCt] 388

Interpretation — Reference to Hansard Proceedings of the Legislative Council
R v Dragages et Travaux [Mag] 601

Penal statutes — Existence of strict liability — Whether defence of honest or reasonable belief can be arrived at by construction — Relevance of provision of explicit defence in related provisions — Dutiable Commodities Ordinance (Cap 109), s 17
Attorney General v Fong Chin-yue and others
R v Wang Shi-hung [CA] 430

Repeal of prior inconsistent legislation by Bill of Rights — Repeal takes effect from date of commencement of Bill of Rights Ordinance — Hong Kong Bill of Rights Ordinance (Cap 383), s 3(2)
R v Kwok Hing-man [CA] 186

Repeal — Implied repeal — Whether legislative intention to place illegitimate and legitimate children on same footing impliedly repealed statute which imposed time limit within which mother of illegitimate child could apply for financial provision from putative father - Affiliation Proceedings Ordinance (Cap 183), ss 4, 5 — Guardianship of Minors Ordinance (Cap 13), s 10 — Parent and Child Ordinance (Cap 429), ss 6, 13
L v C [HCt] 388

Statutory provisions to be interpreted to avoid absurdity only when they are obscure or ambiguous
R v Director of Immigration, ex parte Hai Ho-tak;
R v Director of Immigration, ex parte Wong Chung-hing and others [CA] 324

Subsidiary legislation — Presumption of validity of subsidiary legislation — Forms of subsidiary legislation — Whether promulgation of

development permission area plan under the Town Planning Ordinance part of legislative process — Nature of development permission area plan — Whether tabling of subsidiary legislation mandatory or directory — Whether development permission area plan advisory or binding — Whether implied power to make subsidiary legislation can exist alongside an express power to make delegated legislation — "subsidiary legislation" — Interpretation and General Clauses Ordinance (Cap 1), ss 3, 34 — Town Planning Ordinance (Cap 131), ss 3, 6, 7, 8, 9, 13, 14

R v Town Planning Board, ex parte Auburntown Ltd [HCt] 194

Validity of enforcement notice — Retrospective legislation — Town Planning Ordinance (Cap 131) — Town Planning (Amendment) Ordinance 1991 (Ordinance No 4 of 1991)

R v Attorney General, ex parte Tsei Kwei-king and another [HCt] 686

Tort

Misrepresentation — Elements of tort of misrepresentation — False representation — Knowledge as to truth of representation — Recklessness as to truth of representation — Reliance — Damages and expense incurred — Pure economic loss — Whether failure by government to publish submissions it had solicited from public with promise of publication gave rise to cause of action

Yung Tak-lam, Philip v Governor [Christopher Patten] and others [HCt] 885

Town planning

Interim development permission area — Development permission area plan — Unspecified use — Unauthorized development — Agricultural land — Open storage of building materials and containers — Existing uses — Enforcement actions — Town Planning Ordinance (Cap 131), ss 3, 20, 23, 26 — Town Planning (Amendment) Ordinance 1991 (Ordinance No 4 of 1991)

R v Attorney General, ex parte Tsei Kwei-king and another [HCt] 686

Right to a fair hearing — Procedure for objecting to draft plans — Whether objection proceedings afford the objector a right to a fair and public hearing — Whether preparing and promulgating a Development Permission Plan a legislative or administrative act — Whether rights and obligations in a suit at law involved in objection proceedings —

Whether objection proceedings involve a determination of civil rights and obligations — Whether Town Planning Board an independent and impartial tribunal — Bill of Rights, art 10 — European Convention on Human Rights, art 6 — Interpretation and General Clauses Ordinance (Cap 1), s 34 — Town Planning Ordinance (Cap 131), ss 2, 3, 4, 4A, 6, 8, 9, 13, 14, 16, 17A, 17B

R v Town Planning Board, ex parte Auburntown Ltd [HCt] 194

Whether Town Planning Board is acting ultra vires in laying down restrictions on the types of building and plot ratios in draft development permission plan — Interim Development Permission Plan — Draft development permission area plan — Outline Zoning Plan — Control on the types of building and plot ratios — Green Belt zoning — "development" — "effective development permission area plan" — "interim Development Permission Area" — Building Ordinance (Cap 123), s 16 — Town Planning Ordinance (Cap 131), ss 1A, 3, 4, 4A, 16, 20, 21 — Town Planning (Amendment) Ordinance 1974 — Town Planning (Amendment) Ordinance 1991

R v Town Planning Board, ex parte Auburntown Ltd [HCt] 194

Wardship

Best interests of the child — Whether court can overrule parent's refusal to consent to an operation on a 15-day old baby who would die without the operation

Re C (A Minor) [HCt] 793

Words and Phrases

"According to law" (Hong Kong Bill of Rights, art 11(1))	105
"Alleged"	234,917
"Arbitrary"	56
"Article" (Control of Obscene and Indecent Articles Ordinance (Cap 390), s 13)	5
"As well as for the types of building"	194
"Breach of the peace" (Public Order Ordinance (Cap 245), s 18)	356
"Calculated to prejudice a fair trial"	488
"Civil rights and obligations"	194
"Criminal charge"	62,105
"Criminal matter"	860
"Criminal proceedings of a political character" — Evidence Ordinance (Cap 8), s 77B (3)	860
"Decision"	337
"Determination"	43,194
"Determination of any criminal charge" (Hong Kong Bill of Rights, arts 10, 11)	667
"Development"	194
"Die"	56
"Direct pecuniary interest"	274,285,298
"Effective"	194
"Effective development permission area plan"	194

"Ex parte" (Prevention of Bribery Ordinance (Cap 201), s 17A(1)) 917

"Final" 400,415

"Fresh evidence" — Supreme Court Ordinance (Cap 4) s 23(1) 768

"Fresh indictment" 318

"Gambling establishment" (Gambling Ordinance (Cap 148), ss 2, 19(2), 23) 105

"Hong Kong" 115

"Humanitarian grounds" — Immigration Ordinance (Cap115), s 13 542

"Independent and impartial" 43

"Instrument" 56

"Interim Development Permission Area" 194

"Law" 56

"Loss of nationality" 337

"Matter" (Control of Obscene and Indecent Articles Ordinance (Cap 390), ss 1, 10, 23, 29) 711

"Necessary" (Hong Kong Bill of Rights, arts 16(2), 16(3)) 621

"No good cause" 43

"Nullity" 337

"Offensive weapon" 375

"Office" (Interpretation and General Clauses Ordinance (Cap1), s 63) 129

"Ordinary residence" 400,415

"Ordre public" (Hong Kong Bill of Rights, art 16(2)) 621

"Parking place" 62

"Party to the proceedings" (Control of Obscene and Indecent Articles Rules (Cap 390 sub leg), s r 7(2)) 5

"Peaceful assembly" (Hong Kong Bill of Rights, art 17) 356

"Person holding any office" (Interpretation and General Clauses Ordinance (Cap 1), s 63) 129

"Political character" 860

"Possibility of bias" 274,285,298

"Possibility of pecuniary interests" 274,285,298

"Potential arguability" 542

"Prima facie" (Evidence Ordinance (Cap 8), ss 22A(1), (7)) 592

"Proceeding" 860

"Proportional" 152

"Public authority" (Bar's Code of Conduct, paras 10(a), 101) 637

"Public order" (Hong Kong Bill of Rights, art 16(2)) 621

"Rational" 152

"Real likelihood of bias" 274,285,298

"Realistic" 152

"Reasonable suspicion" 234, 917

"Reasonable suspicion of bias" 298

"Refoulement" 337

"Refugee" 337

"Retrial" 318

"Rights and obligations" (Hong Kong Bill of Rights, art 10) 43

"Rights and obligations in a suit at law" (Hong Kong Bill of Rights, art 10) 194

"Satisfactory" 481

"Satisfactory account" (Summary Offences Ordinance (Cap228), s 17) 375

"Sea-Going Boat Person Certificates" 115

"Status" 56

"Suit at law" 43

"Suitable" 375

"Suspect witness" 38

"Suspected" 234,917

"Truly criminal" 430

"Unauthorised entrant" 115

"Undue hardship" (Prevention of Bribery Ordinance (Cap 201), s 17B(5)) 917

"Universal concept of justice" 56

"Unlawful" 56

"Unlawful assembly" (Public Order Ordinance (Cap 245), s 18) 356

"Well-founded fear of persecution" 337