

**Changes to the Hong Kong Bill of Rights Ordinance**

<b>Item</b>	<b>Changes to HKBORO</b>	<b>Year</b>	<b>Initiating parties</b>	<b>Reasons for changes</b>
1.	Under section 7(2), the words “由眾人組成的團體” in the Chinese text were repealed and replaced by “團體”.	1995	The Administration	Technical change to better reflect the English version.
2.	Section 2(3) relating to the interpretation and application of HKBORO, section 3 on the effect on pre-existing legislation, and section 4 on the interpretation of subsequent legislation were not adopted as laws of the HKSAR.	1997	Standing Committee of the National People's Congress	In contravention of the Basic Law.
3.	Under the Schedule, the words “人民入境條例” in the Chinese text were repealed and substituted by “入境條例”.	1997	The Administration	Technical change arising from the establishment of the HKSAR.
4.	Sections 3(3) and 3(4) were added, suspended, and then repealed from the laws of the HKSAR.	1997 – 1998	Added by Hon. LAU Chin-shek  Suspended and repealed by the Administration	Sections 3(3) and (4) were added in purported clarification of the scope of application of the HKBORO, suspended as the Administration needed to consider their effect further, and repealed because they were unnecessary and, when read with section 7(2), they introduced legal uncertainty and confusion.
5.	Under the Schedule, the words “警察條例” in the Chinese text were repealed and substituted by “警隊條例”.	1998	The Administration	Technical change arising from the establishment of the HKSAR.
6.	Under section 13, the words “行政局” in the Chinese text were repealed and substituted by “行政會議”; and the words “立法局” in the Chinese text were repealed and	1999	The Administration	Technical change arising from the establishment of the HKSAR.

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	substituted by “立法會”.			
7.	Under the Schedule, the words “《總督特派廉政專員公署條例》” in the Chinese text were repealed and substituted by “《廉政公署條例》”.	2003	The Administration	Technical change arising from the establishment of the HKSAR.

**Statutory Provisions, Policies and Measures Held by the Court to be Inconsistent with the Hong Kong Bill of Rights Ordinance  
since the Establishment of the Hong Kong Special Administrative Region**

	<b>Case name</b>	<b>Case number</b>	<b>Date of judgment</b>	<b>Issue</b>	<b>Action taken by the Administration in response to the judgment</b>
1.	Lam Tat Ming v Chief Executive of HKSAR and Secretary for the Civil Service	HCAL 121/2009	1/11/2010	The Secretary for the Civil Service's exercise of power under the Pension Benefits Ordinance (Cap. 99) to refuse a pension	The Administration has lodged an appeal to the Court of Appeal. Appeal to be heard in December 2011.
2.	Wong Tak Wai v Commissioner of Correctional Services	CACV 231/2009	21/7/2010	The standard of proof in prisoner disciplinary proceedings conducted by the Correctional Services Department (CSD)	The CSD has adopted a standard of proof from balance of probabilities to beyond reasonable doubt in conducting prisoner disciplinary proceedings as advised by the Court.
3.	Yao Man Fai George v Director of Social Welfare	HCAL 69/2009	21/6/2010	The one-year continuous residence requirement under the Comprehensive Social Security Assistance Scheme	The Social Welfare Department has ceased to execute the requirement. The Administration has lodged an appeal against the High Court judgment, which will be heard in July 2011.
4.	Lam Siu Po v Commissioner of Police	FACV 9/2008	26/3/2010	Legal representation at disciplinary hearings under regulations 9(11) & (12) of the Police (Discipline) Regulations (Cap. 232A)	Action is in hand to amend, among other things, regulations 9(11) & (12) of the Police (Discipline) Regulations to allow for legal representation at disciplinary hearings where fairness so requires. Disciplined services departments have put in place interim administrative arrangements to consider requests for legal representation at disciplinary hearings from defaulters pursuant to the principle of fairness.

	Case name	Case number	Date of judgment	Issue	Action taken by the Administration in response to the judgment
5.	Chan Kin Sum Simon v Secretary for Justice and another	HCAL 79/2008	8/12/2008	Across-the-board restrictions on prisoners' right to be registered as electors and to vote	The Administration introduced the Voting by Imprisoned Persons Bill into the Legislative Council in May 2009 to remove the disqualification of imprisoned persons and persons convicted of certain election-related or bribery offences from being registered as electors and from voting in elections. The Bill came into operation in October 2009.  The Electoral Affairs Commission made amendment regulations to provide for the detailed practical arrangements.
6.	Leung Kwok Hung v Secretary for Justice and another	HCAL 82/2008	8/12/2008		
7.	Choi Chuen Sun v Secretary for Justice and another	HCAL 83/2008	8/12/2008		
8.	Koon Wing Yee v Insider Dealing Tribunal	FACV 19/2007	18/3/2008	The power under section 23(1)(c) of the Securities (Insider Dealing) Ordinance (SIDO) (Cap. 395) to impose a penalty	The Insider Dealing Tribunal (IDT) has ceased making penalty order. The SIDO was repealed in April 2003 following the enactment of the Securities and Futures Ordinance (SFO) (Cap. 571). Under SFO, the Market Misconduct Tribunal, which has taken over the role of the IDT, does not have any power to impose penalty.
9.	Secretary for Justice v Yau Yuk Lung Zigo and another	FACC 12/2006	17/7/2007	Some of the existing sexual offences under the common law and statute law including the provisions under the Crimes Ordinance (Cap. 200)	The Law Reform Commission appointed a Subcommittee in April 2006 to review the issue.
10.	Leung TC William Roy v Secretary for Justice	CACV 317/2005	20/9/2006		
11.	Leung Kwok Hung and another v Chief Executive of the HKSAR	HCAL 107/2005	9/2/2006	Section 33 of the Telecommunications Ordinance (Cap. 106) which authorises or allows access to or disclosure of the contents of any message	In line with the judgment, section 33 of the Telecommunications Ordinance was amended under the Interception of Communications and Surveillance Ordinance in August 2006.

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12.	Leung Kwok Hung and others v HKSAR	FACC 1/2005	8/7/2005	The interpretation of ‘public order’ in sections 14(1), 14(5) and 15(2) of the Public Order Ordinance (Cap. 245)	The Police have issued Guidelines on the handling of public meetings and public processions to the police officers.
13.	Leung Kwok Hung and others v HKSAR	FACC 2/2005	8/7/2005		
14.	Director of Immigration v Lau Fong	FACV 10/2003	26/3/2004	The applicability of sections 4(1)(a), 7(1), 11(10) and 18 and detention pursuant to section 26 of the Immigration Ordinance to a person having an unexpired permission to remain in Hong Kong and supported by holding of an identity card	Starting from March 2005, the Immigration Department would determine resident status prior to removal of a non-permanent resident who has obtained permission to stay by deception.
15.	Wong Kam Kuen v Commissioner for Television and Entertainment Licensing and another	CACV 41/2003	30/7/2003	The licence conditions for Amusement Game Centres (AGCs) imposed by the Television and Entertainment Licensing Authority (TELA)	TELA has revised the AGC licence conditions. Licensees of and game suppliers for Adult AGCs are no longer obliged to submit games to TELA for vetting before installation. The sexual, violent and gambling contents in games are subject to control under relevant legislation.
16.	Secretary for Justice and others v Chan Wah and others	FACV 11/2000	22/12/2000	(a) The 1999 electoral arrangements used in the Village Representative elections in the Shek Wu Tong and Po Toi O villages (b) The authority of the Secretary for Home Affairs in approving Village Representatives elected from electoral arrangements which are inconsistent with HKBORO	A new set of arrangements as regulated under the Village Representative Election Ordinance (Cap. 576) was enacted in February 2003.
17.	Ng Ka Ling and another v Director of Immigration	FACV 14/1998	26/2/1999	(a) Whether the Immigration (Amendment) (No. 3) Ordinance 1997 has retrospective effect	Paragraph 1(2) of Schedule 1 to the Immigration Ordinance was amended in July 1999.
18.	Tsui Kuen Nang v Director	FACV 15/1998	26/2/1999		

	Case name	Case number	Date of judgment	Issue	Action taken by the Administration in response to the judgment
	of Immigration			(b) The definition of “permanent residents of the HKSAR” under Schedule 1 to the Immigration Ordinance	
19.	Director of Immigration v Cheung Lai Wah	FACV 16/1999	26/2/1999		
20.	The Association of Expatriate Civil Servants of Hong Kong v Chief Executive of the HKSAR	HCAL 90/1997	3/4/1998	Section 17 of the Public Service (Administration) Order which restricted an officer on interdiction from leaving Hong Kong without the permission of the Chief Executive	Section 17 of the Public Service (Administration) Order was repealed in April 2000.