
STATUTORY INSTRUMENTS

1985 No. 1197

OVERSEAS TERRITORIES

The Admiralty Jurisdiction (Hong Kong) Order 1985

| | | |
|-------------------------------|---------|---------------------------|
| <i>Made</i> | - - - - | <i>31st July 1985</i> |
| <i>Laid before Parliament</i> | | <i>21st October 1985</i> |
| <i>Coming into Operation</i> | | <i>13th November 1985</i> |

At the Court at Buckingham Palace, the 31st day of July 1985

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 150 of the Supreme Court Act 1981, section 18(1) of the Merchant Shipping (Oil Pollution) Act 1971, section 20(1) of the Merchant Shipping Act 1974, section 738(1) of the Merchant Shipping Act 1894 and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement and revocation

- 1.—(1) This Order may be cited as the Admiralty Jurisdiction (Hong Kong) Order 1985.
- (2) This Order shall come into operation on 13th November 1985.
- (3) The Admiralty Jurisdiction (Hong Kong) Order in Council 1962 is hereby revoked.

Admiralty jurisdiction of High Court of Hong Kong

2. The Colonial Courts of Admiralty Act 1890 shall, in relation to the High Court of Hong Kong, have effect as if for the reference in section 2(2) thereof to the Admiralty jurisdiction of the High Court in England there were substituted a reference to the Admiralty jurisdiction of that Court as defined by section 20 of the Supreme Court Act 1981 subject to the adaptations and modifications of the said section 20 that are specified in Schedule 1 to this Order.

Application of provisions of the Supreme Court Act 1981 to Hong Kong

3. The provisions of sections 21, 22, 23 and 24 of Part II of the Supreme Court Act 1981 shall extend to Hong Kong with the adaptations and modifications that are specified in Column II of Schedule 2 to this Order.

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Consequential and general

4. Section 13(1) of the Merchant Shipping (Oil Pollution) Act 1971 and section 6(1) of the Merchant Shipping Act 1974, as extended to Hong Kong by the Merchant Shipping (Oil Pollution) (Hong Kong) Order 1975, are repealed.

5. Save as is expressly provided otherwise in the Schedules to this Order, any reference therein, or in section 20, 21, 22, 23 or 24 of the Supreme Court Act 1981, to any enactment of the United Kingdom shall be construed for the purposes of this Order as a reference to that enactment as applying or extended to Hong Kong.

G.I. de Deney
Clerk of the Privy Council

SCHEDULE 1

Article 2

ADAPTATIONS AND MODIFICATIONS OF
SECTION 20 OF THE SUPREME COURT ACT 1981

- (i) In subsection (1)(c) the word “and” shall be deleted and a full stop substituted for the semicolon.
- (ii) Subsection (1)(d) shall be deleted.
- (iii) In subsections (3)(a), (3)(c) and (7), there shall be inserted in each subsection after the words “Merchant Shipping Acts 1894 to 1979” the words “or the Merchant Shipping Ordinance(1) or the Merchant Shipping (Safety) Ordinance(2)”.
- (iv) The references in subsections (2)(j) and (6) to section 51 of the Civil Aviation Act 1949 shall continue to have effect, notwithstanding the amendments made to those subsections by section 109(2) of, and Schedule 15 to, the Civil Aviation Act 1982.

SCHEDULE 2

Article 3

PROVISIONS OF SECTIONS 21, 22, 23 AND 24 OF PART II
OF THE SUPREME COURT ACT 1981 EXTENDED TO HONG
KONG AND ADAPTATIONS AND MODIFICATIONS THERETO

| <i>Column I</i> | <i>Column II</i> |
|-----------------|---|
| Section 21 | In subsections (1), (2), (3), (4), (5) and (6) after the words “High Court” shall be inserted the words “of Hong Kong”. In subsection (7) the words “England and Wales” shall be deleted and the words “Hong Kong” shall be substituted. |
| Section 22 | <p>Subsection (2) shall be deleted and the following subsection shall be substituted—</p> <p>“(2) No court in Hong Kong shall entertain an action in personam to enforce a claim to which this section applies unless—</p> <ul style="list-style-type: none">(a) the defendant has his habitual residence or a place of business in Hong Kong; or(b) the cause of action arose within the territorial waters of Hong Kong; or(c) an action arising out of the same incident or series of incidents is proceeding in the court or has been heard and determined in the court. <p>In this subsection “territorial waters of Hong Kong” include any port, dock or harbour in Hong Kong.”.</p> <p>In subsections (3), (6), (7) and (8) after the words “High Court” shall be inserted the words “of Hong Kong”.</p> |

(1) Chapter 281 of the Laws of Hong Kong.

(2) Chapter 369 of the Laws of Hong Kong.

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| <i>Column I</i> | <i>Column II</i> |
|-----------------|---|
| Section 23 | <p>In subsection (3) the words “England and Wales” shall be deleted and the words “Hong Kong” shall be substituted.</p> <p>After the words “High Court”, where they twice appear, shall be inserted the words “of Hong Kong”.</p> |
| Section 24 | <p>In subsection (1) in the definition of “collision regulations”, the words “or made or adopted under Part IX of the Merchant Shipping (Safety) Ordinance(3)” shall be inserted before the semicolon.</p> <p>In subsection (1), the definition of ship shall read: ““ship” includes any description of vessel used in navigation and (except in subsection (2) (c) of this section) includes, subject to any regulations made by the Governor, a hovercraft;”</p> <p>In subsection (2)(a) after the words “High Court” shall be inserted the words “of Hong Kong” .</p> <p>In subsection (2)(c), for the words “subject to section 2(3) of the Hovercraft Act 1968” there shall be substituted the words “subject to any regulations made by the Governor”.</p> <p>In subsection (2)(c) the words “ , or of any ship, aircraft, hovercraft, cargo or other property belonging to the Government of Hong Kong” shall be inserted before the full stop.</p> <p>In subsection (3) in the definition of “Her Majesty's hovercraft” the words “Northern Ireland” shall be deleted and the words “Hong Kong” shall be substituted.</p> |

EXPLANATORY NOTE

This Order provides that the High Court of Justice of Hong Kong, which is a Colonial Court of Admiralty, shall have the like Admiralty jurisdiction as that of the High Court in England, as defined by section 20 of the Supreme Court Act 1981, with certain modifications. It also extends certain of the provisions contained in Part II of that Act to Hong Kong.