



## Judiciary

The Judiciary of the Hong Kong Special Administrative Region is responsible for the administration of justice in Hong Kong. It hears all prosecutions and civil disputes, including disputes between individuals and the Government.

It is fundamental to Hong Kong's legal system that members of the judiciary are independent of the executive and legislative branches of government.

The courts of justice in Hong Kong comprise the Court of Final Appeal, the High Court (which includes the Court of Appeal and the Court of First Instance), the District Court (which includes the Family Court), the Lands Tribunal, the Magistrates' Courts (which include the Juvenile Court), the Coroner's Court, the Labour Tribunal, the Small Claims Tribunal, and the Obscene Articles Tribunal.

The Chief Justice of the Court of Final Appeal is head of the judiciary and assisted in his administrative duties by the Judiciary Administrator.

A bilingual court system in which either or both Chinese and English can be used was put in place, in accordance with the requirement of the Basic Law.

**The Court of Final Appeal:** It was established on July 1, 1997 upon the commencement of the Hong Kong Court of Final Appeal Ordinance. It replaced the Judicial Committee of the Privy Council in London as the highest appellate court in Hong Kong, to safeguard the rule of law after June 30, 1997. The Court, when sitting, will comprise five judges—the Chief Justice, three permanent judges and one non-permanent judge from Hong Kong or another common law jurisdiction. There is a panel of eight non-permanent Hong Kong judges and nine non-permanent judges from other common law jurisdictions.

**The Court of Appeal of the High Court:** It hears appeals on civil and criminal matters from the Court of First Instance and the District Court, as well as appeals from the Lands Tribunal. It also makes rulings on questions of law referred to it by the lower courts. There are 10 Justices of Appeal, including the Chief Judge.

**The Court of First Instance of the High Court:** It has unlimited jurisdiction in both civil and criminal matters. It also exercises jurisdiction in admiralty, bankruptcy, company winding-up, family, adoption, probate and mental health matters.

The most serious criminal offences, such as murder, manslaughter, rape, armed robbery, complex commercial frauds and drug offences involving large quantities, are tried by a judge of the Court of First Instance, sitting with a jury consisting of seven or, when a judge so orders, nine. There are 23 Judges of the Court of First Instance at present.

**The District Court:** The District Court, established in 1953, has limited jurisdiction in both civil and criminal matters. With effect from December 1, 2003, it has civil jurisdiction to hear monetary claims up to \$1 million or, where the claims are for recovery of land, the annual rent or rateable value does not exceed \$240,000. In its criminal jurisdiction, the court may try the more serious cases, with the main exceptions of murder, manslaughter and rape. The maximum term of imprisonment it may impose is seven years.

There are one Chief District Judge and 30 District Judges, among which three District Judges sit in the Family Court and two District Judges sit in the Lands Tribunal as Presiding Officers.

**The Magistrates' Courts:** Magistrates exercise criminal jurisdiction over a wide range of offences. Although there is a general limit of two years imprisonment or a fine of \$100,000, certain statutory provisions give Magistrates the power to sentence up to three years imprisonment and to impose a fine up to \$5,000,000.

Prosecution of all indictable offences commences in the Magistrates' Courts, the Secretary for Justice may apply to have a case transferred to the District Court or committed to the Court of First Instance of the High Court depending on the seriousness of a case.

There is a total of 73 Magistrates. They sit in various Tribunals and seven Magistrates' Courts: Eastern, Kowloon City, Kwun Tong, Tsuen Wan, Sha Tin, Fanling and Tuen Mun. A Principal Magistrate is in charge of each Magistrates' Courts. The Chief Magistrate is the overall in charge whose chamber is at the Kowloon City Law Courts Building.

Appeals against Magistrates' decisions are heard by a Judge of the Court of First Instance.

There are also seven Special Magistrates. They deal with cases such as hawking contraventions, traffic offences and other departmental summonses.

**The Coroner's Court:** Coroners are empowered to investigate unnatural or suspicious deaths occurring in Hong Kong (and deaths occurring outside Hong Kong if the body is found within Hong Kong).

Except when death occurs while the individual is in custody, or the Secretary for Justice directs, the Coroner decides whether or not to hold an inquest with or without a jury. The inquest is mandatory with a jury where the death occur in custody.

The main purpose of an inquest is to ascertain the cause of and the circumstances connected with the death. If appropriate, a Coroner or a jury may make recommendations designed to prevent the recurrence of the fatality under investigation.

**The Juvenile Court:** The Juvenile Court has jurisdiction to hear charges against children (aged under 14) and young persons (aged between 14 and 16) for any offence other than homicide. Children under 10 are exempted from criminal responsibility.

The Juvenile Court also has power to deal with care and protection cases involving young people aged up to 18.

A juvenile magistrate will explain the alleged offence to the child or young person in simple language and assist him/her if need arises. Before passing sentence, the magistrate may consider pre-sentencing reports. Press coverage of the proceedings in a juvenile court is restricted to avoid disclosure of the identity of a defendant.

The Juvenile Courts are situated at the Eastern, Kowloon City, Tsuen Wan, Fanling and Tuen Mun Magistrates' Courts.

**The Lands Tribunal:** One of the important functions of the Lands Tribunal is to adjudicate claims by landlords for possession of premises, the tenancies or sub-tenancies of which are under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7). Starting from 9 July, 2004, the Tribunal also has power to adjudicate claims for possession of premises, the tenancies or sub-tenancies of which have expired by effluxion of time even when they are outside the said Ordinance. The Tribunal also has power to grant consequential relief.

Another widely used jurisdiction of this Tribunal is to determine building management disputes. Such disputes arise from, among others, the interpretation and enforcement of the provisions of the Building Management Ordinance (Cap. 344) and deeds of mutual covenant, the appointment or dissolution of management committees, requisitions for owners' meetings and appointment of building management agent.

The Tribunal also has unlimited jurisdiction to determine the amount of compensation payable by the Government to a person whose land has been compulsorily resumed or has suffered a reduction in value because of public developments. The Tribunal can also order the sale of land for redevelopment purpose under the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545).

The Tribunal also exercises appellate jurisdiction over (i) determinations by the Commissioner of Rating and Valuation under the Rating Ordinance (Cap. 116); (ii) determinations by the Director of Lands under the Government Rent (Assessment and Collection) Ordinance (Cap. 515); and (iii) determinations by the Director of Housing under the Housing Ordinance (Cap. 283).

In exercising its jurisdiction, the Tribunal has the same powers to grant remedies and relief, legal or equitable, as the Court of First Instance of the High Court. Parties may appoint counsel or solicitors to appear before the Tribunal or, as is often the case, they may appear in person.

The tribunal has a President who is a Judge of the Court of First Instance. There are currently two Presiding Officers who are District Judges, and one member who is a surveyor.

**The Labour Tribunal:** The Labour Tribunal was set up in 1973 to provide a quick, inexpensive and informal procedure for adjudicating disputes between employees and employers. It deals with claims arising out of a breach of a contract of employment. Claims may include wages in lieu of notice, arrears of wages, statutory holiday pay, annual leave pay, sickness allowance, maternity leave pay, bonus/double pay, severance pay, and long service payments. Claimants can also seek orders for reinstatement or re-engagement; for awards of compensation or terminal payments.

Proceedings are mostly conducted in Cantonese before a Presiding Officer. Legal representation is not allowed. Any party aggrieved may appeal on a point of law to the Court of First Instance.

There are 10 Presiding Officers, including one Principal Presiding Officer. The tribunal is located at Pioneer Centre in Mong Kok and Eastern Law Courts Building.

**The Small Claims Tribunal:** The Small Claims Tribunal was established in 1976. It deals with monetary claims arising from contract or tort, involving amounts not exceeding \$50,000.

Hearings are informal and usually conducted in Cantonese. Legal representation is not allowed. Parties may authorise a representative (other than a lawyer) to appear in court. Any party aggrieved by the decision of an Adjudicator may appeal on a point of law to the Court of First Instance.

There are eight Adjudicators, including a Principal Adjudicator. The Small Claims Tribunal is situated at the Wan Chai Law Courts Building.

**The Obscene Articles Tribunal:** The Control of Obscene and Indecent Articles Ordinance came into force in 1987 providing for the establishment of the Obscene Articles Tribunal.

The work of this tribunal covers two main aspects. Firstly, it is responsible for the classification of articles submitted by any public officer, author, printer, manufacturer, publisher, distributor, copyright owner etc. Secondly, the tribunal has exclusive jurisdiction to determine the question of obscenity or indecency when this issue arises in any civil or criminal proceedings in any court.

The Obscene Articles Tribunal consists of a Magistrate and two or more lay adjudicators. Lay adjudicators are selected from a panel consisting of members of the public. The tribunal is situated at the Eastern Law Courts Building.

**Appointment of Judges and Judicial Officers:** Judges and judicial officers are appointed by the Chief Executive on the recommendation of the Judicial Officers Recommendation Commission. The Commission is an independent statutory body composed of judges, persons from the legal profession and eminent persons from other sectors.

Judges and judicial officers are chosen on the basis of their judicial and professional qualities and may be recruited from other common law jurisdictions.