

Table of Abbreviations

A	High Court Action
ACJ	Acting Chief Justice
Adm	Admiralty Action
AF	Anglo-French
AG	Aktiengesellschaft
A-G	Attorney General
App	Appendix
AR	Application for Review
art	Article
Assn	Association
BC	Borough Council
Bros	Brothers
CA	Court of Appeal
Cap	Chapter (as in Chapter Number of an Ordinance)
CC	County Council
CFA	Court of Final Appeal
CFI	Court of First Instance
Ch	Chancery Court or Division
ch	chapter (as in chapter number of a book)
CJ	Chief Justice
CJHC	Chief Judge of the High Court
cl(l)	clause(s)
Cmr	Commissioner
Co Ltd	Company Limited
Co	Company
Comm L	Commercial List
Con L	Construction List
Co-op	Co-operative
Corp	Corporation
Crim App	Criminal Appeal
DC	District Court
dec'd	deceased
Dept	Department
Div	Division
DJ	District Court Divorce Jurisdiction
DJ	District Judge
DPP	Director of Public Prosecutions
EC	European Communities
ECC	Employees' Compensation Case
ECHR	European Court of Human Rights
ECJ	Court of Justice of the European Communities
Ed	Edition
EEC	European Economic Communities
EOC	Equal Opportunities Commission
Eq	Equity Court or Division
Exch	Exchequer Court or Division
exh	exhibit
FC	Full Court

fn	footnote
Fr	French
G	German
GA Res	Resolution of United Nations General Assembly
Gaz	Gazette
Gk	Greek
HC	High Court
HK	Hong Kong
HKSAR	Hong Kong Special Administrative Region of the People's Republic of China; established on 1 July 1997
HL	House of Lords
(in liq)	in liquidation
Inc	Incorporated
IRC	Commissioner of Inland Revenue
J(J)	Justice(s)
J(J)A	Justice(s) of Appeal
KB	King's Bench Court or Division
Lat	Latin
LC	Lord Chancellor
LF	Law French
LT(A)	Lands Tribunal (Appeal)
M/N	Marginal note
MA	Magistracy Appeal
MC	Magistracy Case
MP	Miscellaneous Proceedings
MR	Master of the Rolls
n	note
NPJ	Non-Permanent Judge(s) of the Court of Final Appeal;
NSW	New South Wales
O	Order
O	Order (of the Rules of the Supreme Court/Rules of the High Court; since 1 July 1997)
OE	Old English
OF	Old French
p	page
para(s)	paragraph(s)
PC	Privy Council
PCA	Privy Council Appeal
PD	Probate Division
PJ	Permanent Judge(s) of the Court of Final Appeal; since 1 July 1997
plc	Public Limited Company
pp	pages
PRC	People's Republic of China
pt	part
pte	Private
Pty Ltd	Proprietary Limited
Pty	Proprietary
QB	Queen's Bench Court or Division
R	Rex, Regina, The King, The Queen
r(r)	rule(s)
reg(s)	regulation(s)
RHC	Rules of the High Court; since 1 July 1997
Rly	Railway
rr	rules

s(s)..... section(s)
 SAR..... Special Administration Region
 SC Res..... Resolution of United Nations Security Council
 SC..... Senior Counsel; since 1 July 1997
 sch..... Schedule
 S-J..... Secretary for Justice; since 1 July 1997
 Sp..... Spanish
 subs..... subsection(s)
 t/a..... trading as
 UK..... United Kingdom
 UN..... United Nations
 UNCITRAL..... United Nations Commission on International Trade Law
 US..... United States
 USA..... United States of America
 Vol..... Volume
 VP(P)..... Vice President(s)

A

A fortiori *Lat* – for a stronger reason; all the more; much more so.

更有理由 *拉丁語* - 出於更充份的理由；更加；在更加大程度上如此。

A posteriori *Lat* – from that which follows.

基於結果 *拉丁語* - 由結果追溯到原因的。

A priori *Lat* – from that which comes before; from the cause to the effect.

基於前述 *拉丁語* - 由之前發展至此；由因及果。

Ab initio *Lat* – from the beginning. The term is most commonly used in conjunction with the word ‘void’ to describe transactions or acts (such as contracts or proceedings) which are invalid from the beginning. The term can also be used generally to describe the nature of a matter or an object.

由最初開始 *拉丁語* - 從開始起。這個用語最常見與「無效」一詞一起出現，形容一開始便無效的交易或行為（如合約或法律程序），亦可廣泛用於形容事件或物件的性質。

Abandonment The action or process of surrendering, forsaking, giving up completely or finally, or leaving something or someone unprotected.

放棄／廢除／委付／拋棄 交還、遺棄、完全或最終地放棄或遺下某事或某人不理的行爲或過程。

Contract The relinquishment or discharge of a contract by giving up one's rights in it: *Andre et Cie SA v Marine Transocean Ltd (The Splendid Sun)* [1981] QB 694 (CA). An earlier written contract may be wholly abandoned by a subsequent oral contract. A contract may also be discharged by implication arising from the actions of the parties where such actions establish either an implied agreement to abandon or stoppage: *Pearl Mill Co Ltd v Ivy Tannery Co Ltd* [1918-19] All ER Rep 702, [1919] 1 KB 78 (DC).

合約 某人放棄自己在合約下的權利以解除合約：*Andre et Cie SA v Marine Transocean Ltd (The Splendid Sun)* [1981] QB 694（英國上訴法院）。先前以書面訂下的合約，可全被其後以口頭作出的合約廢除。合約也可藉合約各方的行為所引起的推斷而解除，如果該等行為構成廢除或不得自駁的默示協議：*Pearl Mill Co Ltd v Ivy Tannery Co Ltd* [1918-19] All ER Rep 702, [1919] 1 KB 78（英國區域法院）。

Courts A party to an action discontinues the whole action, or withdraws any particular claim or question made in respect of an action, as against any or all of the other parties to that action. For an action begun by writ (The Rules of the High Court (Cap 4A) O 21 r 2(1)); for an action begun by originating summons

法庭 訴訟一方對其他一方或所有與訟人中止整個訴訟或撤回某一項申索或問題。藉令狀開展的訴訟，見《高等法院規則》（第4A章）第21號命令第2(1)條規則；藉原訴傳票開展的訴訟，見第21號命令第3A條規則；按各方同意而中止或撤回的訴訟，見第21號命令第2(4)

(O 21 r 2(3A)); for consensual discontinuation or abandonment of an action (O 21 r 2(4)); for leave of the court (O 21 r 3).

Abatement A reduction; diminution; decrease.

Equity A diminution; a reduction. Apportioning the insufficiency of a fund proportionally among those entitled, so that the entitlement of each is rateably diminished to allow the equitable distribution of the fund.

Real property 1. Reduction of price corresponding to diminished enjoyment of a property or some related rights. The court may order an abatement in exercise of its equitable jurisdiction: *Lifton Investment Ltd v Pang Chor Ying* (CACV 166/92, unreported). 2. A self-help remedy against an infringement of any easement or profit à prendre.

Tort Elimination; control; minimisation. The process of eliminating, controlling or minimising the effect of undesirable elements such as fire hazards, noise and other forms of pollution or nuisance.

Abatement of legacies Where the available assets of a deceased's estate are insufficient to pay in full all the legacies made in a will, the process of the proportional reduction of the legacies to an amount which can be satisfied out of the available assets of the estate: *Halsbury's Laws of Hong Kong*, Vol 27, Wills, Probate, Administration and Succession [425.784]. General legacies abate rateably and entirely before specific legacies: *Clifton v Burt* [1720] 1 P Wms 678, subject to contrary intention expressed in the will: *Sayer v Sayer* [1714] Prec Ch 392; *Marsh v Evans* [1702] 1 P Wms 668.

Abatement of nuisance Ending a nuisance by self-help, a unique common law right available to the victim of a nuisance. Once exercised, no cause of action lies except for past harm suffered: *Lagan Navigation Co v Lambeg Bleaching Dyeing & Finishing Co Ltd* [1927] AC 226 (HL). This remedy is not suitable where questions of whether there is indeed a

條規則；需法庭許可的，見第21號命令第3條規則。

減少 縮減；減輕；減低。

衡平法 縮減；減輕。為了公平分配基金，把不足分配的基金依比例分攤給各享有人，每一份所得的相對減少。

土地財產 1. 由於物業的可享用權益減少，價錢相對地減低。法庭行使其衡平法司法管轄權，下令減低價錢：*Lifton Investment Ltd v Pang Chor Ying* (民事上訴1992年第166號，未經彙報)。2. 以自助的補救方法解決任何地役權或從土地上獲得某物的權利的侵害行為。

侵權法 消除；控制；減少。消除、控制或減少某些令人討厭事宜（如火警危險、噪音及其他形式的污染或滋擾等）的影響的過程。

遺產的減少（額） 當死者產業中的可動用資產不足以完全償付遺囑訂立的遺產時，按比例減少遺產直至以產業中可動用資產可清償的款額的程序：*Halsbury's Laws of Hong Kong*, 第27冊，遺囑、遺囑認證、遺產管理與遺產，第[425.784]段。先按比例整體地減少一般遺產，後再減少專項遺產：*Clifton v Burt* [1720] 1 P Wms 678；除遺囑上訂明相反的意願之外：*Sayer v Sayer* [1714] Prec Ch 392; *Marsh v Evans* [1702] 1 P Wms 668。

減低滋擾 以自助的方式終止滋擾，受滋擾人士可得到的獨特的普通法權利。一旦行使該權利，除在過去蒙受的傷害之外，任何訴訟因由均不能成立：*Lagan Navigation Co v Lambeg Bleaching Dyeing & Finishing Co Ltd* [1927] AC 226 (上議院)。當涉及是否確實有滋擾產生或其程度的問題時，此

nuisance created, or in matters of degree, are involved (*Kirby v Sadgrove* [1797] 1 Bos & P 13); and is generally confined to negative acts (*Campbell Davys v Lloyd* [1901] 2 Ch 518, 70 LJ Ch 714).

Abduction The unlawful removal of a person from his or her home environment. Abduction of a child or juvenile is an offence: Protection of Children and Juveniles Ordinance (Cap 213) s 26. It is also an offence to abduct an under age unmarried girl: Crimes Ordinance (Cap 200) ss 126 - 128. With the increasing problems associated with international child abduction, the Hague Convention on the Civil Aspects of International Child Abduction was signed in 1980. The Convention was given effect to by the Child Abduction and Custody Ordinance (Cap 512) on 5 September 1997. The relevant rule governing the procedure under the Ordinance is the Rules of the High Court (Cap 4A) O 121. The main objective of the convention is to ensure uniform and speedy return of an abducted child: *S v S* [1998] 2 HKC 316 (CFI). The essential mischief which the Convention is designed to counter is the removal of a child from his or her natural environment, that is, the family and social environment of the country in which the child's life has developed or is developing: *N v O (Child Abduction)* [1998] 4 HKC 574 (CFI).

Abet To intentionally assist or participate in the crime of a principal. Normally used in conjunction with the word 'aid'. Usually, intention will have to be proved but in exceptional circumstances, recklessness is sufficient: *R v Mok Wei Kei & Anor* [1986] HKLR 1054 (CA).

Abettor A person who intentionally assists a principal in the commission of a crime. The abettor must not be merely suspicious but acknowledge that a crime of the type in question was intended: *R v Ng Wai Hung* (CACC 479/90, unreported). An abettor may be convicted even though the principal is acquitted: *R v Howe* [1987] 1 AC 417, 1 All ER 771 (HL).

補救方法則不適用(*Kirby v Sadgrove* [1797] 1 Bos & P 13); 而此補救方法一般只限於否定行為(*Campbell Davys v Lloyd* [1901] 2 Ch 518, 70 LJ Ch 714)。

拐帶 把一個人從他/她的居所非法帶走。拐帶兒童或少年，即屬犯罪：《保護兒童及少年條例》(第213章)第26條。拐帶未成年未婚女童，亦即屬犯罪：《刑事罪行條例》(第200章)第126至128條。與國際擄拐兒童有關的問題不斷上升，《國際擄拐兒童民事方面公約》已於1980年簽署。該公約藉1997年9月25日頒佈的《擄拐和管養兒童條例》(第512章)得以在香港施行。《高等法院規則》(第4A章)第121命令落實該條例中的程序。該公約的主要目的是保證以劃一及迅速方法遣返被擄拐的兒童：*S v S* [1998] 2 HKC 316 (高等法院原訴庭)。訂立該公約旨在打擊犯罪者把孩童從他/她的成長環境(孩童在本身國家一直以來過生活所面對的家庭及社交環境)擄拐：*N v O (Child Abduction)* [1998] 4 HKC 574 (原訴法庭)。

教唆 蓄意協助或參與主犯觸犯罪行。通常與「協助」一詞同用。一般而言，須證明意圖，但於例外情況，罔顧後因果即而足夠：*R v Mok Wei Kei & Anor* [1986] HKLR 1054 (上訴法庭)。

教唆者 蓄意協助主犯觸犯罪行的人。教唆者不應只懷疑並須確認受質疑的罪行為意圖作出：*R v Ng Wai Hung* (刑事上訴1990年第479號，未經彙報)。縱使主犯獲裁無罪，教唆者仍可被定罪：*R v Howe* [1987] 1 AC 417, 1 All ER 771 (上議院)。

C

Call In company law, a demand for payment of the amount or part of the amount which has not been paid or satisfied on a share, made by the company through its governing body upon its members prior to winding up, or by its liquidator when it is in the course of winding up: *Halsbury's Laws of Hong Kong* (1997 Ed) Vol 6, Companies and Corporations [95.0386]. Calls made prior to winding up are made, and payment of them is enforced, in pursuance of the power given by the company's Articles of Association and in the manner therein provided: *ibid* [95.0388]. To regulate the making of calls: Companies Ordinance (Cap 32) sec 1 table A arts 15-21. A demand for payment of a sum due under terms of allotment is not a call: *Croskey v Bank of Wales* (1963) 4 Giff 314; *ibid* [95.0386] note 1.

Call to the Bar The process by which a person is admitted by one of the four Inns of Court as a barrister in England and Wales. Call to the Bar is the act of the Inn and is complete when the candidate is admitted by the benchers of the Inn: *Re Perara* (1887) 3 TLR 677. To be eligible for call, a person must first be admitted as a student member of an Inn and satisfactorily complete the prescribed vocational training and examinations. Having been called the barrister is required to complete a period of pupillage before being entitled to practise. The system does not exist in Hong Kong but the expression is sometimes used loosely to refer to the admission by the High Court in Hong Kong as a barrister: Legal Practitioners Ordinance (Cap 159) s 27.

Cancellation The making void or annulling, particularly of an instrument or

催繳 在公司法中，就股票尚未支付或清償的款額或部分款額而作出的付款索求，在清盤之前，由公司透過其管治團體向其成員作出；而在清盤過程中，則由清盤人作出：*Halsbury's Law of Hong Kong* (1997年版)，第6冊，公司與法團，第[95.0386]段。在清盤前作出的「催繳」，是以公司的組織細則賦予的權力，及根據該組織細則列明的方式而作出：同上第[95.0388]段。有關作出催繳的規管：《公司條例》(第32章)附表1，A表第15-21條。就根據股份分配條款而到期的應繳款項所作的付款索求，不屬催繳：*Croskey v Bank of Wales* (1963) 4 Giff 314；同上第[95.0386]段附註1。

獲認許為大律師 某人獲得四個大律師協會其中之一認許為英國及威爾斯的大律師的過程。獲認許為大律師屬該大律師協會的作為，於申請人獲該大律師協會的主管委員認許時，即完成該過程：*Re Perara* (1887) 3 TLR 677。任何人必須先獲收納為大律師協會的學徒成員，及令人滿意地修畢指定的在職訓練及完成考試，方合資格獲認許為大律師。已獲認許的大律師必須先完成一段時期的大律師實習，方有權執業。在香港不存在該制度，但該用語有時會隨意地用作指獲香港高等法院認許為大律師：《法律執業者條例》(第159章)第27條。

取消 使無效或廢止，特別指某文書或某項交易。

transaction.

Cancellation clause 1. A clause contained in a contract of carriage under which the contract may be terminated by the stipulated means if the stipulated circumstances occur. 2. A clause that gives the charterer a right to cancel the charterparty if the ship has not arrived the port on or before a specified date (cancelling date): *Cheong Yue v Hirji Mulji* [1923] HKLR 1. If the ship cannot arrive the port by the cancellation date, the ship is still under an obligation to proceed to the port. The charterer can sue the shipowner for the damages: *The Madeliene* [1967] 2 Lloyd's Rep 224. Also known as 'cancelling clause'.

Canon law 1. Compilation of the laws of the Catholic Church. Three major compilations have been made: Gratian's Decree from the mid-twelfth century, by the monk Italian Gratian; the Codex Juris Canonici or Code of Canon Law promulgated by Pope Benedict XV in 1917; and the revised Code of Canon Law promulgated by Pope John Paul II in 1983. 2. The body of canons of the Anglican Church of England. Also known as 'ecclesiastical law'.

Capacity The power, ability or competence of a person or body.

Capacity to contract The capacity to enter into contractual relations. There is a presumption at common law that a person who enters into a contract has full capacity to do so, and a person alleging that they are protected from the normal consequences of their actions must bear the burden of proving incapacity: *Borthwick v Carruthers* (1787) 1 Term Rep 648, 99 ER 1300. Certain classes of persons are in law incapable of contracting or are only capable of contracting to a limited extent. Examples include minors, persons of unsound mind and drunkards.

Capita Lat - heads.

Capital 1. In a general business or mercantile sense, the assets with which a business is carried on; the funds provided

撤銷條款 1. 運輸合約中一條條款，據此若所指明的情況發生時，可藉指明的方式中止該合約。 2. 租船合約的一項條款，給予租船人權利，在船隻於指定日期（租賃合約可予以取消的日期）或之前尚未抵達港口，取消該租船合約：*Cheong Yue v Hirji Mulji* [1923] HKLR 1。若船隻在可予以取消的日期前尚未抵達該港口，該船隻仍有責任繼續前往該港口。租船人可就損害賠償起訴船主：*The Madeliene* [1967] 2 Lloyd's Rep 224。另稱「cancelling clause」。

天主教法典 1. 天主教教會編纂的法律。有三套主要的已編纂的法律：二十世紀中期由意大利修士格拉提安編纂的「格拉提安教令」、由教宗本篤十五世於1917年公布的「天主教法典」、及由教宗若望保祿二世於1983年公布的經修訂「天主教法典」。 2. 英國國教會教規。另稱「ecclesiastical law」。

身份能力／行為能力 一個人或身體的權力、能力或稱職能力。

締約的行為能力 締結合約關係的行為能力。根據普通法的推定，任何締結合約的人都有締結合約的完全行為能力，任何人聲稱自己可不受本身的行為的一般後果影響者，必須負上舉證責任，證明沒有行為能力：*Borthwick v Carruthers* (1787) 1 Term Rep 648, 99 ER 1300。在法律上，某類別的人士是沒有締結合約的行為能力的，或只有有限度的行為能力締結合約。例如未成年人士、心智不健全的人士及醉酒人士。

人口 拉丁語 - 人口。

資金／資本 1. 在一般商業或商務意義上，指業務運營的資產；貸款人和擁有人提供的資金，以運營業務。

by lenders and by owners to run a business. 2. One of the factors of production, being a commodity used in the production of other goods and services. Capital is described as 'real' when it consists of machines, factories and stock of raw materials. Real capital may be divided into fixed capital, floating or circulating capital, specific capital and non-specific capital. 3. In relation to share capital, the money subscribed for the shares of a company, or what is represented by that money: *Verner v General and Commercial Investment Trust* [1894] 2 Ch 239. 4. In a limited company, that portion of the total equity provided by shareholders which may be returned upon complying with formalities governing the act of incorporation. 5. Personal savings available for any purpose.

Capital gain 1. A financial gain from selling assets such as land, buildings, residences, businesses, or securities at a profit over the original historic value. 2. A financial gain arising from the natural growth of a business or from a fall in the prevailing interest rate.

Capital punishment A penalty of death imposed on a criminal. Capital punishment has been abolished and replaced by life imprisonment in Hong Kong: *Crimes (Amendments) Ordinance 1993*. The last hanging in Hong Kong was in 1966 and the death sentences imposed since then have been commuted to sentences of life imprisonment.

Capital reserve A portion of a company assets allocated to a special reserve account (Capital Reserve Account) which is not available for the distribution as profit or dividends. Such account may be set up due to the company's internal rules or regulations or required to set up by law or relevant governing bodies: *Hong Kong Securities & Futures Commission, Code on Unit Trusts and Mutual Funds* (3rd Ed).

Care 1. Serious attention and supervision; caution; protection; charge. 2. In relation to childcare, the daily care and control of a child, whether or not

2. 生產中的其中一項因素，即用於生產其他貨品及服務的商品。當資本包含機器、工場及原料存貨，則被稱為「實際」資本。實際資本可分為固定資本、浮動或流通資本、特定資本及非特定資本。 3. 就股本而言，指用作認購某公司股票之款項，或相當於該款項的東西： *Verner v General and Commercial Investment Trust* [1894] 2 Ch 239. 4. 於有限公司中，由股東提供的總股權的一部分，一經符合規管法團成立時的正式手續，即可退回股東。 5. 個人儲蓄，可作任何用途之用。

資本增值 1. 以高於原有的歷史性價值，出售資產（如土地、建築物、住所、業務或證券）而獲得的經濟收益。 2. 由業務的自然增長或通行利率的下調所產生的經濟收益。

死刑 判處某罪犯的死刑。香港已廢除死刑，改判終生監禁作代替。《1993年刑事罪（修訂）條例》。最後一次環首死刑是在1966年，而自此之後死刑減輕至終生監禁。

資本儲備 將公司部分資產分配到某特別儲備的帳戶（資本儲備戶口），而不能用作分發利潤或紅利。該帳戶可因公司內部規令或規例而設立，或由於法律規定或按照有關監管組的要求而設立：香港證券及期貨事務監察委員會《單位信託及互惠基金守則》（第三版）。

謹慎 1. 認真的專注及督導；小心；保護；管理。 2. 就幼兒護理而言，不論牽涉兒童的看管與否，對該兒童的日常照顧和管束。 3. 疏忽

involving the custody of the child. 3. The opposite of negligence. In the law of negligence, the degree of care is judged by the standard of reasonable conduct and is commensurate with the degree of apparent risk.

Careless driving Driving a vehicle on a road without due care and attention or without reasonable consideration for other persons using the road: *Road Traffic Ordinance (Cap 374) s 38*. It is one of the most common road traffic offences in Hong Kong which is triable summarily in the magistrates' court. The test for careless driving is whether the defendant was exercising the degree of care and attention that a reasonable and prudent driver would in the circumstance: *Cheung Chi Shing v R* [1964] HKLR 1. Happening of accident by itself does not constitute careless driving: *HKSAR v Wong Yuk Lun* [1997] HKLY 214; *A-G v Kwan Tak Fu* [1984] HKC 361 (HC). A *res ipsa loquitur* (the thing or matter speaks for itself) approach cannot be relied on in proving the driver's negligence. It was not enough to prove only that the accident happened but there must be some direct evidence of negligence: *R v Lee Hon Chung* [1996] HKLY 296; *R v Kit Wing Wo* [1985] 1 HKC 204 (HC). Failure to observe the advice given in the Road User's Code was not presumptive evidence of careless driving, but a factor to be considered when determining liability: *R v Choi Wai Hung* [1991] HKLY 183; *Road Traffic Ordinance (Cap 374) s 109*.

Carnal knowledge The physical act of penetration by the penis of the vagina or the anus of a female, but not oral sex: *R v Gaston* [1981] 73 Cr App Rep 164. In particular in relation to female who, by reason of age or disability, is taken to be legally incapable of giving valid consent. Carnal knowledge is deemed to be the completion of sexual intercourse upon proof of penetration only: *Criminal Procedure Ordinance (Cap 221) s 65E*.

Carriage by air The conveyance of passengers and goods using aircraft as the mode of transportation, which is regulated

的相反詞。在疏忽法中，謹慎程度是依據合理行為的標準來判斷，及與表面危險的程度相稱。

不小心駕駛 在道路上駕駛車輛時，無適當的謹慎及專注，或未有合理顧及其他使用該道路：《道路交通條例》（第374章）第38(2)條。於香港，不小心駕駛屬最常見的道路交通罪行之一，可於裁判法院循簡易程序審訊。不小心駕駛的測試為：被告所行使的謹慎及專注的程度，是否跟一個合理及審慎的司機在該情況下亦會行使的謹慎及專注一樣： *Cheung Chi Shing v R* [1964] HKLR 1。意外發生本身不構成不小心駕駛： *HKSAR v Wong Yuk Lun* [1997] HKLY 214; *A-G v Kwan Tak Fu* [1984] HKC 361（高等法院）。當證明該司機的疏忽時，不可依賴「事情不言自明」的方法。僅證明意外發生並不足夠，亦必須證明有關疏忽的直接證據：*R v Lee Hon Chung* [1996] HKLY 296; *R v Kit Wing Wo* [1985] 1 HKC 204（高等法院）。未能遵守《道路使用者守則》中作出的忠告，不構成不小心駕駛的推定證據，但在釐定法律責任時屬一個考慮因素：*R v Choi Wai Hung* [1991] HKLY 183；《道路交通條例》（第374章）第109條。

性交 男性陽具插入女性陰部或肛門的身體接觸行為，但並非口交：*R v Gaston* [1981] 73 Cr App Rep 164。尤其與因年齡或能力關係在法律上無能力給予有效同意的女性有關。單憑證明插入，即性交當作完成交合：《刑事訴訟程序條例》（第221章）第65E條。

空運 受《航空運輸條例》（第500章）的規管，使用航空器作為運輸方式而運送乘客及貨品。包括有關行李

testator need not be conscious that he is making his will: *Re Stable, Dalrymple v Campbell* [1919] P 7. Evidence of statements made by the deceased after executing the will is admissible to prove its contents, but cogent evidence is necessary: *Re MacGillivray* [1946] 2 All ER 301 (CA).

Nuptial *Lat - nuptialis - nuptiae* - marriage. Relating to marriage, conjugal. A legal marriage ceremony in which the legal conjugal ties are formed.

到自己正在作出遺囑: *Re Stable, Dalrymple v Campbell* [1919] P 7. 此項於執行遺囑後作出的陳述, 可獲接納為證明該遺囑的證據, 但必需為具有說服力的證據: *Re MacGillivray* [1946] 2 All ER 301 (英國上訴法院)。

結婚 拉丁語 — *nuptialis - nuptiae* - 婚姻。與結婚有關的, 亦指夫妻同居。指形成合法夫妻同居的結婚典禮。

Oath A solemn promise to tell the truth upon pain of sin. In evidence law, the form and manner of administering an oath has been simplified and stripped of technicalities: Oaths and Declarations Ordinance (Cap 11). The person taking the oath will hold the New Testament or, in the case of a Jew, the Old Testament, in his uplifted hand and will say or repeat after the officer administering the oath, the words 'I swear by Almighty God that ...' prescribed by law: Oaths and Declarations Ordinance (Cap 11) s 5(1). In a case of a person who objects to being sworn or is incapable of so taking the oath, or is neither a Christian nor a Jew, the oath will be administered in any lawful manner which is appropriate to his religious belief: s 7. If the oath has been duly administered and taken by a person who at the time had no religious belief, this will not affect the validity of the oath: s 6. Unless a witness has been sworn to tell the truth, the oral testimony of the witness is inadmissible at common law: *A-G v Bradlaugh* (1885) 14 QBD 667 (CA). A court and a person acting judicially may administer an oath to a witness who is lawfully called or voluntarily comes before the court or him: s 3. Deceiving the court or the court's officers by deliberately suppressing a fact, or giving false facts, may be a punishable contempt: *Royson's Case* (1628) Cro Car 146.

Oath of allegiance 1. A solemn promise before God identifying the maker as a subject of a sovereign. 2. When assuming office, the Chief Executive, principal officials, members of the Executive Council and of the Legislative Council, must swear allegiance to the Hong Kong SAR: Basic Law art 104. A

O

宣誓 承諾不說真話則以犯罪作處罰的莊嚴承諾。就證據法而言, 監督方式及刑式已被簡化, 並去掉技術性細節: 《宣誓及聲明條例》(第11章)。作出宗教式宣誓的人須手舉新約聖經, 如屬猶太教徒, 則須手舉舊約聖經, 並須讀出或跟隨監督人員複述以下字句: 「本人謹對全能上帝(天主)宣誓」, 繼而讀出法律訂明的誓言字句: 《宣誓及聲明條例》(第11章)第5(1)條。如任何人反對作出宗教式宣誓, 或無能力如此宣誓, 或既非基督徒亦非猶太教徒, 該人可獲適用於其宗教的合法方式監督: 第7條。如已妥為監督及作出宗教式宣誓, 則即使獲監督的人在作出宗教式宣誓時並無宗教信仰, 此項事實就任何目的而言均不影響該項宣誓的有效性: 第6條。在普通法下, 除非某證人已宣誓只講真話, 否則其口頭證供不會獲接納為證據: *A-G v Bradlaugh* (1885) 14 QBD 667 (英國上訴法院)。法庭及以司法人員身分行事的人可為被合法傳召到其席前或自願到其席前的證人監督: 第3條。故意隱瞞事實、或提供虛假事實而欺騙法庭或法院人員等行為, 可構成可判罰的藐視罪: *Royson's Case* (1628) Cro Car 146。

效忠宣誓 1. 在上帝面前所作的莊嚴承諾, 即承諾人自稱為某主權的子民。 2. 行政長官、主要官員、行政會成員及立法會成員在就職時, 必須宣誓效忠香港特別行政區: 《基本法》第104條。各級法院法官和其他司法人員必須作出保證效忠香港特別行政區的司

judge or judicial officer is required to take a judicial oath to pledge allegiance to the Hong Kong SAR: Oaths and Declarations Ordinance (Cap 11) s 17. Regular police officers must, before entering the duties of his office, pledge before a magistrate or gazetted police officer allegiance to the Government of the Hong Kong SAR: Police Force Ordinance (Cap 232) s 26.

Obiter dictum *Lat* – a remark in passing. Judicial observation on a legal question but which does not form part of the reasoning of the decision in a case. Unlike *ratio decidendi*, obiter dictum is not binding on lower courts nor subsequently on the court that makes them. However, obiter dictum may be of persuasive authority. *Pl* – obiter dicta.

Object In succession law, a beneficiary of a trust or class gift disposed in a will or a person selected from a general or specified class to take an interest in property under a power of appointment. The objects or persons to be benefited by a trust must be expressly designated: *Re Hetley, Hetley v Hetley* [1902] 2 Ch 866.

Objection An expression of disapproval or complaint.

Evidence The making of objections with regard to evidence is governed by the Evidence Ordinance (Cap 8). In civil proceedings, evidence shall not be excluded on the ground that it is hearsay unless (a) a party against whom the evidence is to be adduced objects to the admission of the evidence; and (b) the court is satisfied, having regard to the circumstances of the case, that the exclusion of the evidence is not prejudicial to the interests of justice: Evidence Ordinance (Cap 8) s 47(1). In some circumstances a court is required to satisfy itself that a witness or party is aware that he or she may have grounds for making an objection: for example *R v Lam Yin Yung* [1992] 2 HKCLR 53. The validity of the ground of objection must be decided by the court: *R v Rathbone, ex p Dikko; Noga Commodities (Overseas) Inc v Rijn Maas En Zeescheep Vaartkantoor NV* [1985] QB 630, 2 WLR 375. If the court decides

法誓言：《宣誓及聲明條例》（第11章）第17條。每名正規警務人員在開始履行其職責前，須在裁判官或委任警務人員面前作出保證效忠香港特別行政區政府的誓言或宣言：《警隊條例》（第232章）第26條。

法官宣判時的附帶意見

附帶意見。指法律問題的司法論述，但並不組成一件案件的判決理由之一部份。與判決理由不同，法官宣判時的附帶意見對下級的法院不具約束力，其對作出該論述的同一法院亦不具約束力。但法官宣判時的附帶意見可具說服權威。眾數——*obiter dicta*。

饋贈對象

就繼承法而言，信託受益人，或遺囑處置的類別饋贈受益人，或通過指定受益權而從一般或指明類別中被選出接受財產者。就信託受益的對象或人士必須明示指定：*Re Hetley, Hetley v Hetley* [1902] 2 Ch 866。

反對／異議

表示不批准。

證據 《證據條例》（第8章）規管證據提出的反對。在民事法律程序中，不得以何證據屬傳聞為理由而排除該證據，但在以下條件均獲符合的情況下，則屬例外——(a) 將予援引的該證據是用以針對某一方的，而該一方反對該證據獲接納；及(b) 法庭在顧及該個案的情況下，信納該證據的排除並不損害秉行公正的原則：《證據條例》（第8章）第47(1)條。在若干情況下，法庭須信納證人或一方當事人知悉他／她可有提出反對的理由：例如 *R v Lam Yin Yung* [1992] 2 HKCLR 53。必須由法庭決定反對理由的有效性：*R v Rathbone, ex p Dikko; Noga Commodities (Overseas) Inc v Rijn Maas En Zeescheep Vaartkantoor NV* [1985] QB 630, 2 WLR 375。如法庭的決定是判提出反對的人失敗，法庭可命令該人支付因其反對而引起的訟費：《高等法院規則》（第4A章）第39號命令第

against the person taking the objection, it may order him to pay the costs occasioned by his objection: The Rules of the High Court (Cap 4A) O 39 r 10(3).

Tuition The process by which a taxpayer may seek review of an assessment made by the Inland Revenue Department. Any person aggrieved by an assessment made by the Inland Revenue Department may, by notice in writing to the Commissioner, object to the assessment: Inland Revenue Ordinance (Cap 112) s 64(1). The grounds of objection to the assessment must be stated precisely in such notice and must be lodged to the Commissioner within one month after the date of the notice of assessment: s 64(1); *Independent Steamship Co Ltd, Re* (1970) 1 HKTC 433 (PC).

Objective test Assessing the object, mental state or behaviour of a person or the quality of a thing by reference to a standard external to the person who, or the thing which, is being assessed. An objective test is the opposite of a subjective test. Examples of objective tests include the reasonableness test (*Hoi Kong Container Services Co Ltd v Bewise Motors Co Ltd* [1997] 2 HKC 615 (CA)), the reasonable person test (*HKSAR v Ho Chun Bong* (HCMA 205/2002, unreported)) and the ordinary person test. A standard of reasonableness may be invoked in circumstances such as the determination of whether an award granted under certain legislation is reasonably capable of being referred to that legislation. In relation to the defence of provocation, the ordinary person test lays down the minimum standard of self-control required by the law: *HKSAR v Manjit Singh* [2001] 4 HKC 366 (CA). Regard is not had to the characteristics of the accused in determining the characteristics of the ordinary person, although when it is appropriate to do so because of the accused's immaturity, the ordinary person may be taken to be of the accused's age: *R v Camplin* [1978] AC 705, 2 All ER 168 (HL); *HKSAR v Mok Tsan Ping* [2001] 2 HKLRD 325 (CA).

10(3)條規則。

稅務 立稅人可就稅務局作出的評稅尋求上訴的程序。任何人就稅務局作出的評稅感到受屈者，可以書面通知局長對評稅提出反對：《稅務條例》（第112章）第64(1)條。該通知書必須明確地述明反對該項評稅的理由，該通知書並且必須是在有關的評稅通知書發出日期後1個月內由局長接獲：第64(1)條：*Independent Steamship Co Ltd, Re* (1970) 1 HKTC 433 (樞密院)。

客觀測試 評估某人的行徑，心態或行為，或參照被評估的人或物以外在的標準，從而評估某事情的性質。客觀測試與主觀測試相對照。客觀測試的例子包括合理測試（*Hoi Kong Container Services Co Ltd v Bewise Motors Co Ltd* [1997] 2 HKC 615 (上訴法庭)）、合理人測試（*HKSAR v Ho Chun Bong*（高院裁判法院上訴2002年第205號，未經彙報））及普通人測試。要決定根據某一法例作出的一項判給是否合理地可歸因於該法例，在這種情況下可援引某合理的標準。就激怒的抗辯而言，該項普通人測試規定法律要求的自制能力的最起碼標準：*HKSAR v Manjit Singh* [2001] 4 HKC 366 (上訴法庭)。在決定該普通人的特徵，不能參考該被控人的特徵，但如指控人為未成年人，則普通人可視為是該被控人的年紀：*R v Camplin* [1978] AC 705, 2 All ER 168 (上議院)；*HKSAR v Mok Tsan Ping* [2001] 2 HKLRD 325 (上訴法庭)。

Obligee 1. In relation to a deed, the party who takes a benefit under it. 2. In relation to a bond, the person to whom the obligor is bound and to whom performance of the obligation is owed. The unilateral nature of a bond means the obligor does not have any liability under the bond and as such a person who would otherwise lack capacity for the purposes of entering a binding contractual agreement may be an obligee under a bond.

Obligor 1. In relation to a bond, the person who is bound under the bond. As an obligor is liable on the bond to fulfil the obligation or condition, the obligor must have full legal capacity to contract. 2. In relation to a guarantee, the principal debtor is the person primarily liable to the creditor for the obligation guaranteed. There can be no guarantee unless there is also a principal obligation, existing or contemplated, owed by a principal obligor: *Lombard General Insurance Ltd v Edwin Engineering Ltd* [1989] 2 HKC 438; *Murjani v Bank of India* [1989] 2 HKC 80 (CA).

Obliteration An alteration to a will or other testamentary instrument to block out or delete a word or words. To be a valid revocation of the words intended by the testator, the words obliterated must not be apparent on the face of the document, that is, not able to be seen by natural means: *Finch v Combe* [1894] P 191. An obliteration made after execution of the will cannot take effect unless the word(s) or effect of the will before such alteration is not apparent on the face of the will: *Wills Ordinance* (Cap 30) s 16; *Re Itter* [1950] P 130. Obliteration of part of the words describing the amount of the legacy may be effectual: *Re Hamer* (1943) 60 TLR 168. Where there is complete obliteration of a whole legacy, so that the words used are no longer apparent, the obliteration effects a revocation of the legacy in question: *Re Hamer, supra*.

Obscene Articles Tribunal A tribunal appointed by the Registrar of the High Court for the purpose of the Control of Obscene and Indecent Articles

受惠人／債權人

1. 就契據而言，指從其中取得利益的一方。2. 就債券而言，指對債務人及債務的履行具有約束力的人。債券的單方面性質意味著債務人在該債券項下並不具有任何法律責任，同樣地，缺乏訂立約束性合約協議能力的人，可能為該債券項下的債權人。

義務人

1. 就保證協議而言，根據保證協議須承擔義務的人。義務人就保證協議承擔履行義務或條件的法律責任，唯義務人必須有訂定合約的完全法律行為能力。2. 就擔保而言，主要債務人乃對債權人就所擔保的義務承擔主要責任者。除非現存或預期的主要義務有主要義務人承擔，否則不能產生保證： *Lombard General Insurance Ltd v Edwin Engineering Ltd* [1989] 2 HKC 438; *Murjani v Bank of India* [1989] 2 HKC 80 (上訴法庭)。

塗改

藉刪去字眼或字句的方式修改遺囑或其他遺囑性質的文書。如立遺囑人意圖的字句構成有效的遺囑，則經塗改的字句不應在有關文件的表面上明顯可見，即不可藉自然的方式看見： *Finch v Combe* [1894] P 191。除非有關遺囑的字句或旅行在塗改前於遺囑表面上並不明顯，否則在簽立遺囑後作出的塗改不可生效：《遺囑條例》(第30章)第16條； *Re Itter* [1950] P 130。塗改描述非土地遺贈的款額的部份字句可以是有效的： *Re Hamer* (1943) 60 TLR 168。如對全部的非土地遺贈有完全的塗改，因而使用的字句不再明顯，則塗改會完成對受爭議的非土地遺贈的撤銷： *Re Hamer, 見上文*。

淫褻物品審裁處

為施行根據《淫褻及不雅物品管制條例》(第390章)第6條委出的審裁處。審裁處由司法常務官所委任的以下人士組成—(a) 主審裁

判官一名；及(b)從審裁委員小組選出不少於2名的審裁委員；第7(1)條。審裁委員小組由終審法院首席法官不時以書面通知委任的資格人士組成；第5(2)條。對於由法院或裁判官轉交的任何物品或公开展示事物，審裁處可為施行《淫褻及不雅物品管制條例》裁定—(a) 該物品是否淫褻或不雅；(b) 該事物是否不雅；或(c) 就物品的發布或任何事物的公开展示而提出的免責辯護理由是否已證明成立；第8(1)條。就提出的任何物品而言，審裁處可按以下方式評定該物品的類別—(i) 如認為既非淫褻亦非不雅，評定為第I類；(ii) 如認為屬不雅，評定為第II類；或(iii) 如認為屬淫褻，評定為第III類；及可在評定物品為第II類時，就該物品的發布定下條件。審裁處如認為可能屬《防止兒童色情物品條例》(第579章)所指的兒童色情物品，則可拒絕所提出的評定類別申請，及在任何其他情況下，審裁處可拒絕所提出的評定類別申請；第8(2)條。審裁處在裁定物品是否淫褻或不雅、或裁定公开展示的事物是否不雅時、或在評定物品類別時，須考慮以下各項—(a) 一般合理的社會人士普遍接受的道德禮教標準，且就物品而言，考慮該等標準時並可考慮檢查員根據《電影檢查條例》(第392章)就該條例所指的影片所作的決定；(b) 物品或事物整體上產生的顯著效果；(c) 如屬物品，其發布對象、擬發布對象或相當可能發布的對象是那些人，或是那一類別或年齡組別的人；(d) 如屬公开展示的事物，該事物正在或將會在何處公开展示，以及相當可能觀看該事物的是那些人，或是那一類別或年齡組別的人；及(e) 該物品或事物是否具有真正目的，或其內容是否只是掩飾，以使其任何部分成為可予接受者；第10(1)條。審裁處將物品暫定類別後，呈交或有資格呈交該物品的人，可要求審裁處在全面聆訊中覆核該項暫定類別。全面聆訊的審裁處，須由司法常務官所委任的以下人士組成主審裁判官一名；及(b)從審裁委員小組選出4名或4名以上的審裁委員；第15(1)及(1A)條。